

EXHIBIT N

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 MARIO H. CAPOGROSSO

4 Plaintiff,

5 Case No:

- against -

1:18-CV-02710

(EKLb)

6 ALAN GELBSTEIN, et al.,

7 Defendants.

8 -----X

9
10
11 December 18, 2020

9:45 a.m.

12
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15
16
17 VIRTUAL VIDEOTAPED EXAMINATION BEFORE TRIAL OF

18
19 MARIO H. CAPOGROSSO, the Plaintiff, pursuant to

20
21 Notice, taken at the above date and time, before

22
23 MARIA ACOCCELLA, a Notary Public within and for the

24
25 State of New York.

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Page 4

1 APPEARANCES:
 2
 3
 4 MARIO H. CAPOGROSSO, ESQ., Pro Se
 5 21 Sheldrake Place
 6 New Rochelle, New York 10804
 7
 8
 9
 10 STATE OF NEW YORK
 11 OFFICE OF THE ATTORNEY GENERAL
 12 LETITIA JAMES
 13 Attorneys for Defendants
 14 28 Liberty Street
 15 New York, New York 10005
 16 BY: JAMES THOMPSON, ESQ.,
 17 Assistant Attorney General
 18 Litigation Bureau
 19
 20
 21
 22
 23 ALSO PRESENT: Howard Brodsky, Videographer
 24
 25

1 Mario H. Capogrosso
 2 MR. THOMPSON: Yes. James M.
 3 Thompson, from the Office of the
 4 Attorney General, Letitia James,
 5 Attorney General of the State of
 6 New York, 28 Liberty Street, New York,
 7 New York 10005 on behalf of the State
 8 Defendants.
 9 THE WITNESS: I am Mario
 10 Capogrosso, Pro Se Plaintiff who happens
 11 to also be an attorney; 21 Sheldrake
 12 Place, New Rochelle, New York 10804.
 13 THE VIDEOGRAPHER: Thank you.
 14 Counsel.
 15 I am sorry. Go ahead.
 16 MR. THOMPSON: One slight
 17 correction. Mr. Brodsky, on the case
 18 number. The suffix is now -- the case
 19 number is correct, but the suffix is now
 20 EKLB. A couple of months ago we were
 21 assigned a different judge.
 22 THE VIDEOGRAPHER: Thank you very
 23 much for that correction, Counsel.
 24 The parties have stipulated and
 25 agreed that the court reporter may take

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Page 5

1 Mario H. Capogrosso
 2 THE VIDEOGRAPHER: Good morning. Here
 3 begins the video recorded virtual
 4 remote deposition of Mario H.
 5 Capogrosso, appearing from his location
 6 in New Rochelle, New York.
 7 This deposition is taken by the
 8 Defendants in the matter of Mario H.
 9 Capogrosso, Plaintiff, against Alan
 10 Gelbstein, et al. defendants, Case
 11 Number 1:18-CV-02710 and KBLB in the
 12 United States District Court for the
 13 Eastern District of New York.
 14 Today is Friday, December 18,
 15 2020. The time is approximately 9:45
 16 a.m. eastern standard time.
 17 My name is Howard Brodsky, and I
 18 am the legal video specialist in
 19 association with Veritext Legal
 20 Solutions with offices, located in
 21 New York, New York. The court reporter
 22 is Maria Acocella, in association with
 23 Veritext.
 24 Will counsel please state their
 25 appearances for the record.

1 Mario H. Capogrosso
 2 the witness's oath remotely.
 3 Will the court reporter please
 4 swear in the witness.
 5 THE COURT REPORTER: Can you
 6 raise your right hand for me.
 7 Do you solemnly swear the
 8 testimony you are about to give will be
 9 the whole truth and nothing but the
 10 truth, so help you God?
 11 THE WITNESS: Yes, I do.
 12 THE COURT REPORTER: Thank you.
 13 MR. THOMPSON: Thank you very
 14 much, Mr. Capogrosso.
 15 MARIO H. CAPOGROSSO, the
 16 Plaintiff herein, having been first duly
 17 sworn by a Notary Public within and for the
 18 State of New York, was examined and
 19 testified as follows:
 20 EXAMINATION BY
 21 MR. THOMPSON:
 22 Q. My name is James Thompson. I am
 23 Assistant Attorney General, and I represent
 24 the defendants in this lawsuit.
 25 So during the deposition there is

2 (Pages 2 - 5)

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1 Mario H. Capogrosso
 2 a couple of preliminaries. I am going to be
 3 asking you a number of questions, and there
 4 is a handful of things that are helpful to
 5 remember for the benefit of the transcript
 6 and the court reporter, first of which is
 7 when I ask a question, please wait until the
 8 end of my question before beginning your
 9 answer. That way, we don't have the two of
 10 us talking at the same time.
 11 If I ask a question that you
 12 don't understand, please ask me clarify it.
 13 If you give me an answer, I will assume that
 14 you understood the question.
 15 Similarly, please make all your
 16 answers are verbal. In regular conversation
 17 you have people respond by nodding their head
 18 or shaking their head and saying uh-huh or
 19 uh-uh, and that can make the transcript
 20 difficult, even in a case like this one,
 21 where we have a videographer.
 22 And if at any point in the
 23 deposition you feel like you need a break,
 24 just ask me, and we will take one. I may ask
 25 you to finish answering the question that I

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1 Mario H. Capogrosso
 2 posed or a short line of questioning. But if
 3 you need a break, just let me know, and we
 4 will definitely take it.
 5 Does all of that make sense?
 6 A. Yes.
 7 Q. Great. So Mr. Capogrosso, what
 8 is your full name?
 9 A. Mario H -- Mario Henry
 10 Capogrosso.
 11 Q. And what is your date of birth,
 12 sir?
 13 A. July 4, 1961.
 14 Q. And have you ever been deposed
 15 before?
 16 A. No.
 17 Q. And do you understand that you
 18 are under oath today?
 19 A. Yes.
 20 Q. And what is your understanding of
 21 what that means?
 22 A. That I will tell the truth, as I
 23 always have.
 24 Q. Are you suffering from any
 25 illness or other condition that could affect

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1 Mario H. Capogrosso
 2 your ability to answer questions truthfully
 3 today?
 4 A. No.
 5 Q. Did you take any medication that
 6 could affect your ability to answer questions
 7 today?
 8 A. No.
 9 Q. Is there any other reason why you
 10 might not be able to give complete and
 11 truthful answers to the questions that you
 12 are asked today?
 13 A. Absolutely not.
 14 Q. Great. Sir, are you represented
 15 by counsel?
 16 A. I am representing myself. I am
 17 an attorney. I am representing myself.
 18 Q. And have you ever been
 19 represented by counsel in this case?
 20 A. No.
 21 Q. So what did you do to prepare for
 22 today's deposition?
 23 A. I read -- I read my complaint. I
 24 read all the pleadings that were filed in my
 25 complaint. I read all the exhibits that I

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1 Mario H. Capogrosso
 2 filed, all the response to discovery that you
 3 provided; and that was it.
 4 Q. Have you discussed this
 5 deposition with anyone?
 6 A. No.
 7 Q. All right. So, Mr. Capogrosso,
 8 where did you grow up?
 9 A. In the Bronx, New York.
 10 Q. And where did you go to high
 11 school?
 12 A. Iona Prep in New Rochelle.
 13 Q. And college?
 14 A. I went to three colleges. I have
 15 a bachelor's of art from Columbia University
 16 in 1983. And in 1992 I got a bachelor's of
 17 science in mechanical engineering from
 18 Manhattan College School of Engineering. And
 19 I graduated from Quinnipiac School of Law in
 20 May of 2000.
 21 Q. So tell me about that.
 22 You graduated from college in
 23 1983m and what did you do after you
 24 graduated?
 25 A. I worked -- let me look at my

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1 Mario H. Capogrosso
 2 resume.
 3 I worked as a laborer in a
 4 construction, which my father was a project
 5 manager for -- i.e., executive in the
 6 construction company. I worked for him for
 7 several years because I enjoyed it, truly
 8 liked being outside, after sitting in a
 9 classroom. And I didn't know which direction
 10 to take my career in. I worked as a laborer.
 11 Then I worked for a construction
 12 company as draftsman and as a project
 13 engineer out in the field.
 14 Then I went -- decided to get my
 15 engineering degree, and I went to engineering
 16 school and finished my engineering degree.
 17 Q. So why did you decide to get an
 18 engineering degree?
 19 A. Because I was working in the
 20 engineering field. I enjoyed it. I enjoyed
 21 it very much. I enjoyed the guys I was
 22 working with. I enjoyed the people I was
 23 working with. And I enjoyed working with my
 24 dad very much. And wanted to go back and get
 25 my engineering degree, which I did.

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1 Mario H. Capogrosso
 2 Q. And did you like engineering
 3 school?
 4 A. I liked -- well, it was fun. I
 5 mean, I enjoyed the mathematical part of it,
 6 yes. I enjoyed the people, and I enjoyed
 7 the -- I was good at it. I was a good
 8 engineer. I still am a good engineer.
 9 Q. So how long -- well, actually, I
 10 am getting ahead of myself.
 11 What did you do after you
 12 graduated engineering school?
 13 A. I worked for an engineering
 14 company, several engineering companies.
 15 Q. What did your duties there
 16 entail?
 17 A. Well, I was hired by Ebasco
 18 Engineering. I worked at a nuclear power
 19 plant as a project engineer. Nuclear power
 20 plant design engineer.
 21 I did both design work and
 22 project work. I was responsible for the
 23 design work at several nuclear power plants,
 24 and I enjoyed it. I liked it. It was fun.
 25 I enjoyed it. I traveled a lot. I had to go

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1 Mario H. Capogrosso
 2 to different job sites, nuclear sites.
 3 So -- and the one thing that I
 4 was taught at these job sites, nuclear sites,
 5 is that you tell the truth. You be very
 6 truthful and very direct, because if you
 7 don't, there are severe consequences. So
 8 that is my personality.
 9 Q. Okay.
 10 A. I worked at nuclear power plants
 11 and in various parts of the country. It was
 12 design work and engineering work.
 13 Q. And you said the name of that
 14 company was Ebasco Company. I am sorry?
 15 A. Ebasco, E-B-A-S-C-O. Esbaso,
 16 which later became Racions (phonetic)
 17 Engineers and Constructors.
 18 Actually, before then it was
 19 Washington Group International.
 20 Q. And --
 21 A. Go ahead.
 22 Q. How long did you work for them?
 23 A. I worked at -- let me see -- I
 24 worked between 1992 and 1996 at various
 25 engineering companies.

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1 Mario H. Capogrosso
 2 No, I worked -- no, I am sorry.
 3 1992 to 1994 I worked for Ebasco Engineers.
 4 then I worked from '94 to '96 with a
 5 construction company that was doing retrofit
 6 work on power plants. Then I worked for --
 7 as a mechanical engineer to 2001, Washington
 8 Group International, at various other nuclear
 9 power plants.
 10 And then I worked for BGA
 11 Consulting Engineers, which we did also work
 12 at nuclear plants, because they liked my work
 13 in 2003.
 14 Q. And, Mr. Capogrosso, you look
 15 from the picture as if you are looking at a
 16 document there; is that correct?
 17 A. My resume.
 18 Q. Can I ask for a copy of that to
 19 be produced to us?
 20 A. Yeah, sure.
 21 Q. Do you have any other documents
 22 that you are looking at, as you are giving
 23 testimony today?
 24 A. Well, I have all the exhibits
 25 that I provided to you yesterday and I

4 (Pages 10 - 13)

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1 Mario H. Capogrosso
 2 provided in this case, and I have all your
 3 discovery. That is what I have to refresh my
 4 recollection.
 5 Q. Okay. So can you list for me the
 6 documents you have in front of you? Because
 7 normally when you do a deposition, there is
 8 no documents in front of the witness other
 9 than what is put in front of them as an
 10 exhibit.
 11 A. Well, I do have certain exhibits.
 12 I have all the exhibits that were provided to
 13 you yesterday. That is what I have. That is
 14 what I have in front me.
 15 Q. Okay.
 16 A. There are 86 exhibits. I have
 17 all 86 exhibits. You don't want me to refer
 18 to them to refresh my recollection, well,
 19 then you have to make an objection, but that
 20 is what I have in front me.
 21 Q. The problem is that since we are
 22 on Zoom, I can't see what is in front of you
 23 in the way I could if we were all around the
 24 table together. So can I ask you to please
 25 clear the desk in front of you.

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1 Mario H. Capogrosso
 2 A. It is cleared. It is cleared.
 3 Q. Thank you.
 4 So, Mr. Capogrosso, why did you
 5 decide to go to law school?
 6 A. I liked learning. I liked, you
 7 know, pursuing academic endeavors.
 8 And truthfully, I was married and
 9 divorced, and I was sitting in my apartment
 10 all alone. I said -- I had nothing to do at
 11 night. Let me go to law school; it will give
 12 me something to do.
 13 I put in an application. I take
 14 the exam. And I didn't study very long for
 15 the exam; took the book, I read through it.
 16 They accepted me into law school.
 17 So rather than sitting at home in the
 18 apartment, I figured let me sit in a law
 19 school. So I worked as an engineer during
 20 the day, and at night I went to law school,
 21 for four years. Helped me get through my
 22 divorce, kept me busy.
 23 Q. And did you have a particular
 24 career intention when you applied to law
 25 school?

Page 16

1 Mario H. Capogrosso
 2 A. Not really. Not really.
 3 I worked as an engineer after I
 4 graduated. I graduated in 2000. I still
 5 enjoyed working as an engineer.
 6 But the company I worked for
 7 wanted me to travel, and I didn't want to
 8 travel anymore. They wanted me to go to the
 9 west coast, California, and be an engineer in
 10 one of the power -- out in Washington State,
 11 actually, not California.
 12 I didn't want to go to Washington
 13 State. I just didn't. I said, let me -- I
 14 passed two bars, New York and Connecticut,
 15 but I was still working as an engineer.
 16 I said, all right. Let me send
 17 out a resume, see if somebody gives me a job.
 18 I got a job offer, and I went and took it.
 19 Q. And where -- where was that job
 20 offer?
 21 A. That job offer was at the
 22 Brooklyn TVB.
 23 Q. Okay. So you applied to work at
 24 the Brooklyn TVB?
 25 A. No. I applied to an attorney.

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1 Mario H. Capogrosso
 2 Terry Kalker, who is a lawyer down there who
 3 was looking for a lawyer. I sent him [sic]
 4 my resume. She [sic] responded. I said, you
 5 know, I don't know what type of work she did.
 6 But I went down, started working
 7 for her as one of her attorneys.
 8 Q. And how do you spell Ms. Kalker's
 9 name?
 10 A. K-A -- I think K-A-L-K-E-R.
 11 Q. And so can you tell me a little
 12 bit about working for Ms. Kalker?
 13 A. Well, when I worked for her, it
 14 seemed fine when I first started. When I
 15 first started, it seemed fine.
 16 But she made certain
 17 representations to me that she didn't
 18 fulfill. Now I was getting -- now medical
 19 insurance is very important to me, and making
 20 a representation of following through with it
 21 is very important to me.
 22 She made a representation that I
 23 would have medical insurance after three
 24 months. I worked for her for three months,
 25 and I said, where is my medical insurance?

5 (Pages 14 - 17)

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1 Mario H. Capogrosso
 2 Because I had it in my previous job.
 3 Working for an engineer, if they
 4 say something, they do it.
 5 Terry Kalker didn't do that. She
 6 said, well, you will get medical insurance a
 7 year and three months from now, which upset
 8 me greatly, very greatly.
 9 So at that point I said, all
 10 right, you don't want to pay me medical
 11 insurance, you are not upholding what you
 12 said you were going to do.
 13 I left her and went into practice
 14 for myself. And that is what I started doing
 15 in June, June of 2005. I started work for
 16 Terry Kalker in April 2005, April or March of
 17 2005. I only spent three or four months with
 18 her.
 19 Q. And how did she respond when you
 20 objected?
 21 A. She continued with that
 22 affirmation, you will get your insurance from
 23 a year. I said, that is unacceptable. I
 24 said, you can't make a representation and
 25 don't follow through with it.

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1 Mario H. Capogrosso
 2 So at that point I really -- I
 3 started not to trust this woman anymore. I
 4 said, that is enough. She was sent in -- I
 5 normally, with my engineering firm, if they
 6 sent me someplace, they always paid my
 7 expenses.
 8 She said she was going to pay
 9 expenses, and then she decided not to pay
 10 expenses. And she sending me to all
 11 different courts, all over Long Island and
 12 Upstate New York. I said, I can't afford
 13 this. I can't afford it. Gas, tolls.
 14 So at that point I said, you
 15 know, you are not going to truthful with me,
 16 I don't feel comfortable working with you. I
 17 decided to end it.
 18 My clients who I was representing
 19 liked me, liked my representation, so I said,
 20 I will do this on my own, which is what I
 21 did.
 22 Q. So what was your salary with
 23 Ms. Kalker?
 24 A. That beginning salary, what I
 25 recall was \$40,000 a year, back in 2005.

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1 Mario H. Capogrosso
 2 Q. And that is without expenses?
 3 A. Without expenses. Without
 4 medical insurance. No, maybe it was 50. I
 5 am not sure. I think maybe it was 50. Maybe
 6 it was 50. I think she offered 40, and I got
 7 her up to 50, something like that, between 40
 8 and 50. It was either 40 or 50. I am not
 9 exactly sure. I don't remember. She paid
 10 me, you know, a weekly check. It might have
 11 been 50. Might have been.
 12 Q. And how did that compare to your
 13 engineer -- your work at the engineering
 14 firm? What were you paid there?
 15 A. I was paid more, and they were
 16 paying expenses. I don't recall the exact
 17 last salary I had as an engineer, but it was
 18 more than that.
 19 Q. Do you have a ballpark figure,
 20 approximately?
 21 A. Maybe 57 or 80, plus they gave me
 22 per diem, which means when I went to a job
 23 site, which I often did, they gave me a daily
 24 per diem.
 25 Or if I had to stay there for

Page 21

1 Mario H. Capogrosso
 2 several months, they gave me per diem to pay
 3 for my living expenses. They treated their
 4 employees very well.
 5 But I made the decision to try to
 6 be a lawyer, because I went to law school at
 7 night. I didn't want to do any more
 8 traveling. I made that decision, and I
 9 wanted to stay in one place for a while.
 10 And my company wanted me to
 11 travel, and I didn't want to travel anymore.
 12 and so I said, let me give it -- I went to
 13 law school and I passed two exams, so let me
 14 try it. And I did, and my clients liked me.
 15 Q. And so you started your practice
 16 before TVB, your solo practice before the TVB
 17 at -- in summer of 2005, correct?
 18 A. June, early July, late June,
 19 early July 2005.
 20 Q. And can you sort of describe your
 21 practice to me.
 22 A. I represented motorists at
 23 hearings, traffic violation hearings. The
 24 clients loved me. Police officers didn't
 25 like me because I really grilled them, did

6 (Pages 18 - 21)

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1 Mario H. Capogrosso
 2 grill them. I went after them.
 3 My clients loved me; they did.
 4 I submitted several reviews to
 5 you, many reviews. My clients really liked
 6 me as an attorney, they did. Police officers
 7 didn't. I really went after a police officer
 8 in the court, I did. It was my obligation.
 9 I felt an obligation to my clients to
 10 zealously defend.
 11 I remember taking that oath when
 12 I got admitted into the bar, you have an
 13 obligation to zealously defend, and that is
 14 what I did.
 15 Q. Was your practice primarily in
 16 the South Brooklyn TVB?
 17 A. Yes, pretty much. Occasionally I
 18 would get -- what happens is you get a ticket
 19 that sometimes go to other courts, another
 20 tribunal, so if you took it -- you take it,
 21 you went. Sometimes you get one Upstate,
 22 Upstate New York or Long Island. And you
 23 took the case, you had to go, and I went.
 24 Predominately it was in Brooklyn South.
 25 Q. If you have to put a percentage

Page 23

1 Mario H. Capogrosso
 2 on that, what percent of your work would you
 3 say was in the South Brooklyn TVB?
 4 A. Ninety percent. 90 percent.
 5 Q. Did you practice before any other
 6 administrative tribunals other than the TVB?
 7 A. Let me think. Other
 8 administrative.
 9 I went to criminal court, 346
 10 Broadway, which is down in New York City. I
 11 went to criminal court often. Occasionally.
 12 Sometimes they had a pink ticket,
 13 which is not a yellow ticket, and I would
 14 have to go down to criminal court. But that
 15 wasn't a --
 16 Q. Can you explain that to me?
 17 A. Well, sometimes some of these
 18 motorists would get, as opposed to a yellow
 19 ticket, they would get a pink ticket, which
 20 was covered by the penal code of New York
 21 State, and it is a little more graver
 22 implications.
 23 Normally everything got pled out.
 24 But I would go down to certain criminal
 25 courts. That's where police officers gave

Page 24

1 Mario H. Capogrosso
 2 violations, summons that had criminal
 3 implications. They were held at a different
 4 court, and I went there. But for the most
 5 part, that was it.
 6 Q. Did you do any other criminal
 7 work outside of the pink tickets?
 8 A. I had one where a guy was accused
 9 of stealing some groceries from a grocery
 10 store, and another one where a man got
 11 involved in an altercation with his --
 12 another man concerning parking his truck in
 13 front of his business.
 14 And I went down to Red Hook
 15 Criminal Court in Red Hook. I went out to
 16 immigration court once, and I represented a
 17 client there who never showed up for his
 18 hearing, and the case got thrown out. That
 19 is what I recall. That is what I recall.
 20 Q. And so no other administrative
 21 tribunal other than TVB?
 22 A. No. That would be it.
 23 Q. Did you ever practice before the
 24 OATH, the Office of Administrative Trials and
 25 Hearings for New York City?

Page 25

1 Mario H. Capogrosso
 2 A. No. I would have remembered
 3 that.
 4 Q. So you said that you had
 5 litigated a couple of criminal cases in
 6 New York State Court and one immigration
 7 case.
 8 Have you litigated any other
 9 cases in State court, criminal or civil?
 10 A. Well, after that point in time I
 11 worked for an attorney down in Brooklyn, so
 12 yes, there were other cases I have litigated.
 13 I worked for an attorney in
 14 Connecticut after I was removed from the
 15 Brooklyn TVB system, the New York TVB system.
 16 I worked for an attorney in Connecticut.
 17 I worked for an attorney -- as an
 18 independent -- well, and I worked for an
 19 attorney in Brooklyn.
 20 Q. So let's step back to the TVB for
 21 a second.
 22 Did you like practicing at TVB?
 23 A. I loved it. I loved it. They
 24 were short: Got there at 8:30 the day was
 25 over by 4:00. I loved it. I loved my

7 (Pages 22 - 25)

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1 Mario H. Capogrosso
 2 clients. My clients loved me. I liked it.
 3 It wasn't a whole bunch of preparation for
 4 it.
 5 It was the same defenses, for the
 6 most part. I liked being the courtroom. I
 7 liked to speak. My clients liked me.
 8 I was right down by the water. I
 9 loved going to the beach. Afterwards, I
 10 would go to beach. I loved it. It was a
 11 short day. It was nice. I loved it.
 12 Q. You said a short day.
 13 What were your average hours?
 14 A. 8:30. Court opened at 8:30. Got
 15 there right at 8:30 or 8:15. The doors
 16 opened right at 8:30, and the day ended
 17 Monday, Tuesday, Wednesday, Friday by 4:00.
 18 All cases are wrapped up by 3:30. On
 19 Thursday it went later, until 6:00. That was
 20 a late day.
 21 All you had to make sure was that
 22 your calendar was kept properly. Calendar
 23 was very important. You had to make sure
 24 your calendar was right, and you had to make
 25 sure you stayed in contact with these

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1 Mario H. Capogrosso
 2 motorists.
 3 They wanted to know what
 4 happened. I would make phone calls all the
 5 time, whether I won, I lost. I always told
 6 them to show up. I always wanted my client
 7 with me in a courtroom, always. I wanted
 8 them to hear what I did and what I said. I
 9 wanted them to know, if they gave me money. I
 10 was defending them. I wanted them to know
 11 that.
 12 A lot of other motorists -- other
 13 attorneys didn't like that. They didn't want
 14 their motorists showing up. I wanted my
 15 guys --
 16 Q. So did you ever --
 17 A. Go ahead.
 18 Q. Did you ever consider taking
 19 another job while you were at the TVB?
 20 A. No. I liked it. No, I really
 21 liked it. I enjoyed. I enjoyed it.
 22 I know there were other aspects
 23 of law, but I know it would have taken a
 24 commitment. I enjoyed it.
 25 Q. And if you had to estimate, how

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1 Mario H. Capogrosso
 2 long were you planning on continuing to
 3 practice at the TVB? Were you thinking of
 4 retiring at some point?
 5 A. I am a working man. I am going
 6 to die -- I am going to work until I die. I
 7 am a working man. I was brought up that way.
 8 I told you after I left Columbia.
 9 my father put me as a laborer, and I worked
 10 as a laborer. I am a working man. I am
 11 going to work until I can't work anymore. I
 12 don't believe in retirement. I am going to
 13 work until I can't work any longer. That is
 14 my opinion. That is how I --
 15 Q. All right. So after you were
 16 expelled from practicing before the TVB in
 17 2015, what did do you for work?
 18 A. Afterwards, very difficult to
 19 find work. I am not a youngster. Very
 20 difficult finding work. I sent out resumes.
 21 First of all, first of all, the
 22 most important thing I did is I called every
 23 one of my clients. I had 850 clients. I
 24 called every one of them. I said, give me
 25 your address, and I have to return money.

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1 Mario H. Capogrosso
 2 Because everybody who paid me a fee, and I
 3 didn't complete that case, their money got
 4 returned. Everyone got their money back.
 5 Everyone. Give me an address, and for the
 6 most part, for a long time, long time. I was
 7 writing checks to return money.
 8 I am not going to be called a
 9 thief. I am no thief. I returned money. I
 10 did that for a long time. And I don't think
 11 you have one complaint from a motorist I
 12 didn't return a fee to, not one. I returned
 13 every fee that I did not earn because I
 14 didn't complete the case.
 15 Then when that got completed --
 16 that took some time -- motorists were calling
 17 me daily, daily: Where are you? Why aren't
 18 you showing up? It was a real headache.
 19 They were calling me daily, all hours of the
 20 night, where is my money? How come you
 21 didn't return my money? I did return your
 22 money.
 23 Well, how come I didn't get it
 24 yet? Give it a couple of days in the mail.
 25 I returned every dollar. It took

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1 Mario H. Capogrosso
 2 a long time to tell my clients, I am not
 3 practicing this type of law right now. A lot
 4 were asking, why not? Well, that was it.
 5 So I did that for a while. That
 6 took a long time, a good portion of time to
 7 clear all the cases up.
 8 And then I put out resumes, and I
 9 got an offer in Connecticut. I worked from
 10 Connecticut. And then I got the offer in
 11 Brooklyn; I worked in Brooklyn.
 12 Q. So tell me about the position in
 13 Connecticut. What organization was that
 14 with?
 15 A. It was for a law firm in
 16 Connecticut.
 17 Q. And what was the name of that law
 18 firm?
 19 A. Law Firm of Frank Peluso,
 20 P-E-L-U-S-O.
 21 Q. P-E-L-U-S-O.
 22 And when did you start working
 23 there?
 24 A. You don't want me referring to my
 25 resume. Let me think. 2015, this happened.

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1 Mario H. Capogrosso
 2 I don't know. Two thousand --
 3 Q. You can look at your resume if
 4 you want; that is fine. Just please provide
 5 us with a copy of it after.
 6 A. 2016, I think. I think it was
 7 2016, I believe.
 8 Q. Do you know what month in 2016?
 9 A. No. I was working as an
 10 independent contractor. He paid me on a
 11 1099. So everything was always paid on 1099.
 12 So was I officially with the
 13 firm. I reported to the firm every day. I
 14 reported to him every day.
 15 Was I under -- was I salaried
 16 employed? No, I was being paid on 1099.
 17 Q. Do you remember sort of what time
 18 of the year it was that you started working
 19 there?
 20 A. No.
 21 Q. Spring, summer, fall?
 22 A. Had to be in -- let me think. I
 23 think it was May. May 2016, I think.
 24 Q. Okay. And what did your work for
 25 the Peluso firm consist of?

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1 Mario H. Capogrosso
 2 A. We had personal injury cases. I
 3 had one in New York, one in Connecticut.
 4 several in New York, several in Connecticut.
 5 I am licensed in both states. He liked that.
 6 I represented some criminal
 7 defendants in criminal matters. I think we
 8 had a couple of divorce cases. He was a
 9 general practitioner.
 10 Q. And how much were you paid for
 11 that work?
 12 A. I don't recall the exact salary.
 13 I don't. I know he paid me on a weekly
 14 basis. Might have been -- I don't know. Let
 15 me think. 1100 to 1200. Thousand or 1100 a
 16 week, something like that. 200 a day, 250 a
 17 day, something like that. He paid me on a
 18 weekly basis, you know. 200 to \$250 a day.
 19 from what I recall.
 20 Q. And so why did you stop working
 21 for the Peluso firm?
 22 A. He lost his malpractice
 23 insurance. It was an issue. I am not going
 24 to go into the details of it, but he lost his
 25 malpractice insurance.

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1 Mario H. Capogrosso
 2 I said Frank, I can't work for a
 3 person that doesn't have malpractice, I
 4 can't. I said, do you want to pay for my
 5 malpractice insurance? I didn't feel
 6 comfortable with that, because then it is not
 7 under my license. I am really practicing
 8 under my license.
 9 I said, Frank, you gotta get
 10 malpractice. You lost it. I said, I don't
 11 feel comfort. I have to leave you. If you
 12 don't have malpractice -- he had a problem or
 13 issue; I don't want to get into it.
 14 But he couldn't get malpractice
 15 insurance. I said, I can't take a chance.
 16 Frank.
 17 Q. Can you give me a quick summary
 18 of what the issue was?
 19 A. I don't recall the -- you know,
 20 you have to ask -- I don't know the issue. I
 21 know one day he told me he had no
 22 malpractice.
 23 Frank, I can't work. I am sorry.
 24 I don't know what his issue was.
 25 I didn't get into it. I know he had

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1 Mario H. Capogrosso
 2 litigation going on, and the insurance
 3 company decided to drop him, and he couldn't
 4 get it anyplace else.
 5 Q. Did the issue have anything to do
 6 with any of the cases you were working on?
 7 A. No, no. Before I got there, he
 8 had an issue on a matter.
 9 No, not me. Not me. No, I
 10 wasn't involved in the malpractice suit.
 11 Didn't mention my name at any point. Didn't
 12 mention me. Mentioned him. And then he
 13 showed up.
 14 Q. Um --
 15 A. -- go ahead.
 16 Q. I am sorry. I didn't mean to cut
 17 you off.
 18 A. Well, before I took the job, I
 19 didn't know he had this issue. I had no
 20 idea. No idea. So I took the job.
 21 Then I am into the job, and he
 22 tells me, well, they dropped me. Well, what
 23 do you want me to do, Frank? Had nothing to
 24 do with what I did. I was never named in any
 25 grievance or anything like that. Not.

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1 Mario H. Capogrosso
 2 Q. And if you had to estimate, how
 3 many personal injury cases did you do while
 4 you were there?
 5 A. Oh, I don't know. Personal
 6 injury, maybe -- oh, I don't know. The cases
 7 were all -- he had a lot of them. The ones I
 8 actually bring to complete -- I worked on a
 9 lot of them. Do I recall?
 10 You know, he had a lot -- he had
 11 cases. But the ones I actually brought to
 12 completion while I was there, maybe three or
 13 four.
 14 Q. And cases you worked on, in
 15 total? Just estimate.
 16 A. At least 50. At least 50 cases
 17 that I had. But I only brought to completion
 18 maybe three or four, in terms of --
 19 Q. How many criminal cases would you
 20 say you worked on with the Peluso firm?
 21 A. Oh, he had cases, five or six
 22 that I completed. I said they were ongoing.
 23 They don't get completed overnight. They
 24 were ongoing.
 25 Q. Yeah. Five or six that you

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1 Mario H. Capogrosso
 2 completed.
 3 And what is an estimate of how
 4 many that you worked on at one point or
 5 another?
 6 A. He had a caseload. He had at
 7 least 75 cases in the office that I touched,
 8 that I had to get some type -- you know, that
 9 I was working, that he was throwing at me on
 10 different levels.
 11 Q. The Peluso Firm, did you do any
 12 legal work other than personal injury and
 13 criminal defense?
 14 A. We had a land dispute, a land
 15 dispute that I helped resolve. We settled
 16 that between parties, between two parties.
 17 Somebody putting up a fence, that I remember.
 18 What else? Divorce case that I
 19 helped work on. And that was it.
 20 Q. Okay. And when did you stop
 21 working for the Peluso Firm?
 22 A. When I found out that he lost the
 23 malpractice.
 24 Q. And when was that?
 25 A. That would have been -- let me

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1 Mario H. Capogrosso
 2 see. Probably in '17. The beginning of
 3 2017. Beginning of 2017. Yeah, 2017.
 4 Q. Okay. And what did you do after
 5 you stopped working with the Peluso Firm?
 6 A. Well, then I was looking for
 7 work. It is not easy, finding a job at my
 8 age. I am 59 years old, not easy. I started
 9 looking for work.
 10 So I was taking whatever I could.
 11 I was doing per diem work. I was sent out
 12 to -- they have this thing called Attorneys
 13 on Demand. AOD. I put my resume out there.
 14 So I would go -- for a while I was doing
 15 that. Attorneys on Demand. If they had a
 16 case, I would go out to the case and do an
 17 appearance and pay me for the appearance. I
 18 did that for a while.
 19 Q. And about how much were you paid
 20 by AOD?
 21 A. Oh, geez, it was substance level.
 22 You had to bargain with them, too. You know,
 23 there was a lot of attorneys. You know.
 24 everybody -- if you were an attorney that
 25 regularly went there, they gave it to them

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1 Mario H. Capogrosso
 2 first. It was nothing, 50, \$75 maybe.
 3 Q. For an appearance?
 4 A. Yeah, hundred dollars an
 5 appearance, maybe. Hundred dollars an
 6 appearance was max.
 7 But you took what you could get.
 8 I gotta eat. You took what you could get.
 9 Q. And other than for AOD, did you
 10 work at any other organizations at this time
 11 before you joined the Brooklyn firm?
 12 A. I did some per diem work for a
 13 couple of lawyers who needed some help on
 14 certain things. I forgot their names. I
 15 really did forget their names.
 16 It wasn't a long time that I
 17 worked for them. It was per diem. They --
 18 work who needed some extra help. I forget
 19 their names, I do.
 20 And then I got the opportunity to
 21 work with -- in Brooklyn in 2018, and I took
 22 that position.
 23 Q. Did you -- you know, before we
 24 get to the Brooklyn position, did you do any
 25 cases yourself? Did you have any of your own

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1 Mario H. Capogrosso
 2 clients?
 3 A. No, no. All my clients got
 4 returned to me.
 5 My reputation in Brooklyn got
 6 ruined. My reputation in Brooklyn got ruined
 7 because of this.
 8 And I didn't want to go out on my
 9 own yet until this got resolved. I wanted
 10 this put to an end. I wanted my reputation
 11 reestablished. I want to tell my clients,
 12 yeah, I won this case, and I am back to
 13 practicing law, and I am a good lawyer. And
 14 I wanted this case resolved before I went
 15 back on my own on a full-time basis, because
 16 my reputation got ruined, and I wanted this
 17 resolved.
 18 Q. So you said you took a job in
 19 2018 with a firm in Brooklyn; is that
 20 correct?
 21 A. The law firm of Yuan Jiang.
 22 Q. And can you spell Yuan Jiang?
 23 A. Yuan, Y-U-A-N, Jiang, J-I-A-N-G.
 24 Q. And how did you get connected to
 25 the job with the Yuan Jiang firm?

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1 Mario H. Capogrosso
 2 A. I went on Craigslist he had
 3 posted a job offering. I sent out my resume.
 4 He was a nice guy, Yuan. I got
 5 nothing bad to say about him. He is a really
 6 nice guy. I sent out my resume. He was a
 7 nice guy, Yuan, and he gave me a job. And I
 8 am thankful for it, very thankful.
 9 Q. And when did you start working
 10 with the Jiang firm?
 11 A. Once again, he paid me on a 1099.
 12 But I was with the firm. I was. He paid me
 13 on a 1099. It was his firm. I started in
 14 March. I know the exact date, actually. I
 15 think it was March 26, 2018.
 16 Q. And what did your duties consist
 17 of at the Jiang firm?
 18 A. Well, one of his lead attorneys.
 19 It was me, him, in the office. There was
 20 another attorney who left right away.
 21 Another attorney came in. And then there was
 22 about three paralegals. And his wife was
 23 there. She ran the front desk. But I was
 24 one of the attorneys.
 25 Q. So what did you do for them?

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1 Mario H. Capogrosso
 2 A. Drafted complaints, personal
 3 injuries cases, drafted complaints, filed
 4 complaints, answered complaints. Had
 5 criminal cases we did that. What else?
 6 Personal injury and criminal complaint work.
 7 He had immigration work, which I
 8 did a little bit of, but then he brought
 9 somebody in who had a lot of experience in
 10 immigration. I didn't have the experience.
 11 I had one experience with immigration. But
 12 he brought somebody in who was pretty good
 13 with immigration. And that was it.
 14 Q. And if you had to estimate, you
 15 know, how many personal injury cases and how
 16 many criminal cases -- let ask one at a time.
 17 How many personal injury cases
 18 did you work on for the Jiang firm?
 19 A. Like I said, probably touched --
 20 you know, he had a lot of cases coming in.
 21 He had a lot; 45, 40 to 45. You know, I
 22 would say about 40 cases. And criminal work.
 23 another 15.
 24 Q. And anything other than criminal
 25 and personal injury?

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1 Mario H. Capogrosso
 2 A. We had a matrimonial case. I
 3 enjoyed that one. And I thought the lady was
 4 being treated very badly. It was a lady that
 5 had been treated very, very badly. I wanted
 6 a nice settlement for her, and I was very
 7 happy with that case. We had a -- I had a
 8 divorce case -- we actually had a couple of
 9 divorce cases. The one I actually settled,
 10 and I got a nice settlement on, I was very
 11 happy with.
 12 Q. And so what was your compensation
 13 while you were at the Jiang firm?
 14 A. It was 85,000 a year. 85,000.
 15 But I was paid on a weekly basis.
 16 Q. Did that include benefits?
 17 A. No benefits, no.
 18 Q. No insurance?
 19 A. No. He covered my malpractice
 20 insurance. He covered the malpractice, and I
 21 was -- it was great. But other than that,
 22 nothing, no.
 23 Q. And so how long were you at the
 24 Jiang firm for?
 25 A. Until COVID 19 hit. The last day

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1 Mario H. Capogrosso
 2 he closed the firm down, in March, what was
 3 it 2020. March 17th, put a notice on the
 4 front door said, we are closed right now. He
 5 had me working from home like a week or two,
 6 and said, this is not working, and put a
 7 notice on the door and said we are closed.
 8 It was exactly March 17, 2020.
 9 Q. So March 17th was your last day
 10 working for the Jiang firm?
 11 A. Yes.
 12 Q. And it was an amicable
 13 separation?
 14 A. Yeah. You know, he closed the
 15 door down. Thank you. Thank you very much.
 16 you know.
 17 Q. At the point when -- at the point
 18 where the COVID crisis is over, do you expect
 19 that you will go back to work for the Jiang
 20 firm?
 21 A. I think he has moved on. I
 22 haven't really spoken to him. I think he is
 23 open now, and he hasn't reached out to me.
 24 So I am sure he has moved on.
 25 I don't want to go back into a

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1 Mario H. Capogrosso
 2 situation where I am meeting clients and
 3 interacting with clients. I am fearful. I
 4 am 59 years old, I am and I have had two
 5 relatives who have died of this disease
 6 already.
 7 Q. I am very sorry.
 8 A. Thank you. I am sorry. Thank
 9 you.
 10 I am fearful of interacting with
 11 clients on a daily basis, I am. So until I
 12 get vaccinated --
 13 And I think Jiang has moved on.
 14 I did drive by the office, and I saw it was
 15 open. So at some level, he is open.
 16 But I don't know what his
 17 caseload is like, and I don't know if he is
 18 generating any revenue.
 19 Q. And you haven't reached out to
 20 him about that?
 21 A. No. I do wish him the best. He
 22 is nice guy, Yuan. He is a nice guy and nice
 23 wife. And I do wish him the best, yes.
 24 Q. So what you are doing for work
 25 currently?

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1 Mario H. Capogrosso
 2 A. Nothing. Nothing. Nothing.
 3 Nothing.
 4 Q. You don't have any clients of
 5 your own?
 6 A. No, nope. I told you, I need
 7 this resolved. I need this resolved. One
 8 way or the other, I need this resolved.
 9 Either my name gets cleared as an attorney,
 10 my name gets cleared and my reputation gets
 11 reestablished as an attorney, or I move on in
 12 another direction, because I am -- or I move
 13 on. That is my feeling on this.
 14 Q. You said move on in another
 15 direction. What would that be?
 16 A. I don't know. I don't know. I
 17 will go out and do something to make a
 18 living.
 19 I do get made pandemic
 20 assistance. I do. I am not going to lie
 21 about that; I do get pandemic assistance. It
 22 is going to run out very shortly; it will.
 23 At that point, I don't know what I am going
 24 to do. I will have to figure it out.
 25 Q. When you say pandemic assistance,

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1 Mario H. Capogrosso
 2 you mean unemployment?
 3 A. Yes.
 4 Q. And this is under the -- what is
 5 it, the Cares Act that they passed?
 6 A. Yeah. I am not sure under what
 7 act it was. But I do get PUA, pandemic
 8 unemployment assistance. But it is going to
 9 be running out. You get 39 weeks of it.
 10 Q. So you haven't done any legal or
 11 other work since leaving the Jiang firm in
 12 March; is that correct?
 13 A. Other than the work on my case,
 14 and other than work on this case, no.
 15 Wait. no. I had one client. He
 16 is a friend, not really a client. He was a
 17 friend that I talked to about a case.
 18 Other than that, no.
 19 Q. All right. Was that -- did he
 20 pay you for that legal advice?
 21 A. No. Nope. It was friend. A
 22 friend. He was going -- he wanted to try to
 23 establish visitation rights with his child.
 24 First of all, I don't think it is
 25 appropriate to represent friends or family.

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1 Mario H. Capogrosso
 2 You get too emotionally involved. Especially
 3 me, I get too emotionally involved.
 4 He has another attorney now, and
 5 I wish him the best. I hope he gets
 6 visitation, because he is a nice guy. And
 7 that is it.
 8 Q. And do you have any other sources
 9 of income at this time?
 10 A. No. I day trade a little bit,
 11 making some money day trading. That is very
 12 chancy. I have to resort to that, but I did
 13 make some money day trading.
 14 Q. About how much money did you make
 15 day trading?
 16 A. Oh, I don't know. How much money
 17 do you lose day trading, is more like it.
 18 There is no guaranteed money day trading.
 19 Q. Are you good at it? Do you win
 20 more than you lose?
 21 A. There is no way to generate an
 22 income. I am okay, but I don't generate any
 23 significant -- first of all, you need money
 24 to day trade.
 25 I am okay. I am okay. I am not

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1 Mario H. Capogrosso
 2 great, but I to have resort to that right
 3 now, but --
 4 Q. Would you say you make a couple
 5 of thousand a year, more or less?
 6 A. I don't know. I don't know. I
 7 really don't know.
 8 It is not a thing I do often. It
 9 is not something I can rely on, let me say
 10 that. It is not something I can rely on.
 11 I prefer being an engineer or
 12 being a lawyer. You know, I enjoyed what I
 13 was doing down in Brooklyn. I enjoyed being
 14 an engineer.
 15 I want this resolved. And once
 16 this is resolved, I will make the decision
 17 what direction to go in.
 18 Q. And you had mentioned that if you
 19 don't prevail in the case, you would be
 20 looking to do something else. Do you mean
 21 something nonlegal, or do you have an idea in
 22 mind?
 23 A. I don't know. I don't like the
 24 way the legal professional acts. I don't --
 25 I worked for an engineer a long time in my

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1 Mario H. Capogrosso
 2 life, nuclear -- at a nuclear -- if I lied
 3 once, I was off the job. Once. Good-bye.
 4 If I said inappropriate -- if I
 5 didn't know anything, I kept my mouth shut.
 6 But I would never say -- I would never lie.
 7 I mean, it is not accepted.
 8 I have dealt with more lawyers
 9 and judges who have lied, who have not
 10 investigated facts. Terry Kalker, who I
 11 started out with, who told me, you will have
 12 medical insurance in three months, which was
 13 a lie, which is why I left her.
 14 Yuan didn't do it. Yuan was a
 15 straight guy.
 16 Frank Peluso, who lost his
 17 malpractice insurance.
 18 I dealt with more lawyers who
 19 have lied that I can -- it just disturbed the
 20 heck out of me. It does. It does disturb
 21 it. I am a very truthful guy.
 22 In engineering, you cannot be
 23 non-truthful. So I do want to stay in this
 24 professional -- I don't know. I don't know
 25 at this point.

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1 Mario H. Capogrosso
 2 I want to clear my name; that is
 3 what I do know.
 4 Q. So that is what this case is
 5 about for you, clearing your name?
 6 A. Clearing my name and getting the
 7 money that I lost that I could have made.
 8 I am a working man. Like I told
 9 you, I am a working man.
 10 I had to return a lot of fees, a
 11 lot of fees, and I was put out of work
 12 wrongly. Wrongly I was put out of work.
 13 Q. So can you summarize for me what
 14 this case is about?
 15 A. Vindication of my name, my
 16 reputation as an attorney. To getting the
 17 money that I lost because I couldn't work as
 18 an attorney. The money I had to return.
 19 And for a Brooklyn jury to make a
 20 decision, whether there are judges and
 21 lawyers who have lied on my behalf to get rid
 22 of me, because Judge Gelbstein needed a piece
 23 of the action. Because he has lunch with
 24 ticket brokers on a weekly basis. He has
 25 other attorneys covering for him on cases

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1 Mario H. Capogrosso
 2 down there, and he wanted me out.
 3 And judges like that shouldn't be
 4 practicing, and he shouldn't be covered for
 5 by his superiors. And complaints should not
 6 be made against a hard working attorney like
 7 myself, which is what I was.
 8 There was not one grievance from
 9 a motorist or a client against -- what he did
 10 for them, not one grievance.
 11 And my reputation has to be
 12 besmirched, and they wanted me out of there
 13 because I told the truth and reported what I
 14 saw and heard, and they wanted me out of
 15 there.
 16 And they set me up. Not only the
 17 incident with Yaakov Brody, which I think I
 18 was set up on, but with these two who --
 19 David Smart.
 20 And then repeated it -- repeated
 21 pleas for help, not only with your office.
 22 where my complaint was lost and was never
 23 responded to in my letter of March 20, 2015;
 24 it was lost.
 25 And I believe I was set up, and I

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1 Mario H. Capogrosso
 2 believe a Brooklyn jury has to hear it. And
 3 people should be punished for their actions.
 4 And how I was treated, they should be
 5 punished. That is what this case is about.
 6 Q. So I mean, so some of this is
 7 items that I intend to get to a little later
 8 in the deposition.
 9 You mentioned a couple of
 10 incidents just now regarding Judge Gelbstein
 11 and some allegations that you feel are valid.
 12 You said something about a piece of the
 13 action. Can you explain that to me?
 14 A. First meeting with Judge
 15 Gelbstein, first meeting when I arrived, we
 16 had a meeting. He arrived pretty much a
 17 couple weeks or months after I arrived. He
 18 has a meeting with all the lawyers.
 19 And one of the first things I
 20 remember -- I have a very good memory. I
 21 have a very good memory -- how do I get a
 22 piece of the action? How do I get a piece of
 23 action? This is judge asking for a piece of
 24 the action.
 25 Q. So can you explain to me sort of

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1 Mario H. Capogrosso
 2 the context in which that came up, like what
 3 was said before that?
 4 A. I don't know if he is saying it
 5 in what respect. But if you say to another
 6 attorney, how do I get a piece of the action,
 7 and you are a judge, and you think you are
 8 saying this facetiously or being funny, I
 9 don't accept it that way.
 10 I don't -- I am a young attorney
 11 down there. I am just kind of observing. It
 12 hit me the wrong way, for a judge to say, how
 13 do I get a piece of the action?
 14 He had an attorney's meeting with
 15 all the attorneys down there, all the regular
 16 attorneys he calls it. He wanted a meeting
 17 with everybody when I first arrived.
 18 Q. And when was this, what year?
 19 A. Well, I started working down in
 20 June of -- like I said, June of 2005. So it
 21 was right at that point, after that point, a
 22 couple of months afterwards, he arrived;
 23 July, August.
 24 Q. July, August 2005?
 25 A. Yes. He had the first meeting

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1 Mario H. Capogrosso
 2 with all the regular attorneys down there,
 3 and I was one of them at that point.
 4 Q. And can you tell me what happened
 5 in the meeting?
 6 A. He was introducing himself as
 7 Judge Gelbstein, and he makes this remark.
 8 And I didn't know how this game
 9 was played down there. And eventually I
 10 found out what is going on.
 11 And looking around, I said, this
 12 judge might be getting a piece of the action.
 13 Was I upset about it?
 14 Absolutely.
 15 Q. So going back to the meeting, he
 16 just said out of nowhere -- was anything said
 17 before he said that? Did someone ask him a
 18 question? Or was he talking about something
 19 else?
 20 A. No, no. No, just makes the
 21 remark, how do I get a piece of the action?
 22 Q. Just out of nowhere, how do I get
 23 a piece of the action?
 24 A. Yeah.
 25 Then I see a meeting with ticket

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1 Mario H. Capogrosso
 2 brokers on a weekly basis.
 3 Ticket brokers is a guy who comes
 4 down there; that is what happens. They give
 5 summons to lawyers, and these ticket brokers
 6 are in his office every week.
 7 And I asked -- walked in one day
 8 said, what is going on?
 9 Q. Let's take a step back to the
 10 initial meeting that we are talking about
 11 here, if you would.
 12 You had said you didn't think it
 13 was funny, or that he was being facetious.
 14 Was he joking when he said this?
 15 A. I don't know. I don't know.
 16 Q. Do you think he thought he was
 17 joking?
 18 A. I don't know.
 19 Listen, I came from a background,
 20 if a man said something, you held him to his
 21 word. That is the background I came from. I
 22 came from an engineering background.
 23 If a judge says something -- we
 24 are all adults here, and he is a judge. He
 25 is not a guy; you know, he is a judge. He is

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1 Mario H. Capogrosso
 2 a lawyer.
 3 You say that, and you expect me
 4 to not accept it as truth? I don't know how
 5 he meant or said it. I know he said it. I
 6 am testifying to what I heard. I am not
 7 getting paid --
 8 Q. Did he say --
 9 A. I am not getting paid to do the
 10 Attorney General -- I shouldn't be looking
 11 into this. This is not my responsibility to
 12 be looking into, if a judge says how do I get
 13 a piece of the action. I don't think it is
 14 my responsibility. I reported what I heard.
 15 Q. Was there any other context
 16 about, you know, that indicated what he might
 17 have meant, that you recall?
 18 A. No. He said, I hope you guys all
 19 make a lot of money. I know that, something
 20 to that effect, that -- you know, I hope all
 21 you attorneys make money.
 22 He was introducing himself to the
 23 attorneys. And he ended it with how do I get
 24 a piece of the action?
 25 Q. All right. So the second item

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1 Mario H. Capogrosso
 2 that you raised was something to do with
 3 ticket brokers. Can you explain that to me?
 4 A. Ticket brokers are guys that
 5 gather tickets from the community: Cab
 6 drivers, motorists. And they would bring the
 7 ticket down to lawyers. The lawyers would
 8 take the ticket and argue the case on behalf
 9 of the ticket broker and the client without
 10 ever meeting the client himself.
 11 And they would get a piece of the
 12 action, the ticket brokers.
 13 Q. So the ticket broker would get a
 14 cut of the legal fee?
 15 A. The ticket broker would collect
 16 the legal fee, which I thought was terrible,
 17 and they would pay the lawyer. The ticket
 18 broker would take 200 for a ticket, call
 19 himself a lawyer. I don't what he was
 20 calling himself. Then they would come down
 21 to the courthouse, and every -- all the
 22 attorneys had them. And the ticket broker
 23 would give the lawyer money, and then the
 24 lawyer would argue the case, take the case
 25 on.

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 2 Q. You said he -- at one point in
 3 that description, is there one specific
 4 ticket broker you are thinking about?
 5 A. There were a lot of ticket
 6 brokers, a lot of ticket brokers: Chinese
 7 ticket brokers, Jewish ticket brokers.
 8 I felt terrible about it. To me,
 9 I called the bar association about it. I
 10 said, is this wrong, for ticket brokers to
 11 come down and pay lawyers to do tickets for
 12 people who are not themselves?
 13 The bar association couldn't give
 14 me a straight answer. So, you know, for the
 15 longest time -- first of all, they were
 16 taking money out of the attorney's pocket.
 17 which I didn't like.
 18 And I did call the bar
 19 association, and they didn't give me a
 20 straight answer, or they didn't understand
 21 it. So that was it.
 22 Q. And you indicated that you found
 23 something objectionable about the way Judge
 24 Gelbstein handled ticket brokers. Can you
 25 explain that?

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1 Mario H. Capogrosso
 2 A. They were in his office. They
 3 were in his office on a weekly basis.
 4 And I walked into -- I knocked on
 5 his door one day, and I said, do you know who
 6 you are having lunch with here? He says, he
 7 is a friend of my wife. I have dinner with
 8 him, but I don't know what he does for
 9 living.
 10 Q. Who is this, that we are talking
 11 about?
 12 A. This is one of the Jewish ticket
 13 brokers.
 14 Q. Do you know his name, sir?
 15 A. No. I didn't want to know his
 16 name.
 17 I didn't want to deal with these
 18 guys; I really didn't. I really didn't want
 19 to deal with them. I thought what they did
 20 was wrong. They were taking money out of the
 21 attorney's pocket, number one. Number two, I
 22 don't know what kind of representations they
 23 were making. They were making
 24 representations in order to get these monies
 25 from these clients and these motorists. They

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1 Mario H. Capogrosso
 2 were saying something to them, and I don't
 3 know what they were saying.
 4 But to me, there was an
 5 appearance of impropriety. I didn't want to
 6 get involved with it. I felt it was
 7 abhorrent that ticket brokers would be in his
 8 office, abhorrent.
 9 Q. Is it correct to say there is one
 10 particular ticket broker who was in his
 11 office, the one who he said was a friend of
 12 his wife's?
 13 A. I think there was a father and a
 14 son. They were related on some basis. They
 15 were related. I don't know any names.
 16 Q. Do you know anything else that
 17 would identify them, of description or other,
 18 you know, information?
 19 A. No, no. They had the Jewish --
 20 one man has the traditional Jewish. I don't
 21 know, garb that Jewish people wear. Another
 22 person didn't.
 23 But I know what they did. They
 24 weren't lawyers. I knew the lawyers down
 25 there. They were not lawyers. And I knew

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1 Mario H. Capogrosso
 2 what they did.
 3 Q. And so Judge Gelbstein was having
 4 lunch with them?
 5 A. They were in his office on a
 6 weekly basis. In his office on a weekly
 7 basis.
 8 Now, I do --
 9 Q. Um -- I am sorry, continue.
 10 A. Well, there was another lady,
 11 Tanya Rabinovich who I mentioned, who was
 12 down there, actually in the courtroom,
 13 calling herself a lawyer.
 14 But clients, motorists, would
 15 approach me and say, where is Tanya, the
 16 lawyer? I said, she is not a lawyer. She is
 17 not a lawyer. Where is Tanya the lawyer?
 18 Where is Tanya the lawyer? She is not a
 19 lawyer.
 20 She had an office right near the
 21 DMV at one point, right near the DMV
 22 upstairs. Where is Tanya, the lawyer? I
 23 said, she is not a lawyer.
 24 I called the district attorney
 25 one day. I said, you have a woman down here

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1 Mario H. Capogrosso
 2 calling herself a lawyer. Does anybody care?
 3 She is making representations that she has a
 4 legal degree, and she is not a lawyer.
 5 You know, I went to law school at
 6 night for four years while I worked during
 7 the day, a full day as an engineer at a
 8 nuclear power plant. I worked at night. I
 9 went a hundred grand in debt to go to this
 10 law school.
 11 And I paid off every dollar.
 12 Every dollar got paid off. I didn't renege
 13 on any loans that I took. Every dollar got
 14 paid off. I passed two bar exams.
 15 And she gets to call herself a
 16 lawyer in his courtroom, so I called the
 17 district attorney concerning her. There is
 18 an investigation made.
 19 Next thing I know, she is not
 20 there any more. And Gelbstein -- Judge
 21 Gelbstein approaches me and says, who are
 22 you, Don Quixote? I said, now I know this
 23 guy is on the take. Now I know it. He wants
 24 everybody to be quiet. He wants everything
 25 to go on as is.

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1 Mario H. Capogrosso
 2 It is in my opinion, and I am
 3 entitled to my opinion. Now I know this guy
 4 is on the take.
 5 Q. And so let's take a step back.
 6 This conversation where he said,
 7 who are you, Don Quixote, when did that
 8 happen?
 9 A. That is after I called the
 10 district attorney on this woman, then I don't
 11 see her anymore.
 12 Q. Do you know when that was?
 13 A. You know, when I first got there,
 14 I didn't understand the game, who all the
 15 players were. But after I started practicing
 16 down there, it is when the clerks started not
 17 to like me.
 18 They liked Tanya. And I have an
 19 understanding why they might have like her.
 20 She was probably paying them off. She was
 21 going to the counter and doing business with
 22 them on a daily basis. She was going up to
 23 the counter, and she would put in and ask for
 24 tickets. She was given -- the clerks were
 25 giving her tickets, summons for the clients

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1 Mario H. Capogrosso
 2 she had.
 3 I said, how does this woman, who
 4 is not a lawyer, and clerks are giving her
 5 the summons that she is asking for, and she
 6 is not a lawyer? How is she doing this?
 7 And she would be rescheduling
 8 these cases for these people. So obviously
 9 she was giving these clerks something, for
 10 them to do this.
 11 I said, this is wrong. I said,
 12 this is wrong. And the clerks were doing her
 13 business.
 14 I called the district attorney.
 15 yeah, I did. I made that statement.
 16 Next thing I know, the clerks
 17 don't like me. The clerks don't like me at
 18 this point.
 19 Q. When was this? Do you remember
 20 what year?
 21 A. If I can refer to my document, I
 22 can probably look at. It is in one of my
 23 exhibits.
 24 One of the clerks said I pushed
 25 her. She actually came up to me -- it is in

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1 Mario H. Capogrosso
 2 one of the documents, one of the exhibits I
 3 gave you. You can look it up. In my
 4 affirmation in response, one of them said I
 5 assaulted them.
 6 There is no assault. I called
 7 the district attorney. She comes over,
 8 yelling and screaming, did you call the
 9 district attorney? I could have denied it.
 10 I could have denied that I didn't call.
 11 I didn't deny it. I told her the
 12 truth: Yeah, I called. You are calling
 13 yourself a lawyer. You are doing business
 14 down here as a lawyer.
 15 She starts yelling and screaming
 16 at me. I tried to get away from her, and I
 17 walk away from her. We might have brushed
 18 shoulders. I don't know. I didn't do
 19 anything to her, but she is right on top of
 20 me.
 21 Now these clerks didn't like me
 22 for that. I have a feeling for that, I
 23 really do, that I called the district
 24 attorney.
 25 Judge Gelbstein didn't like it.

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1 Mario H. Capogrosso
 2 Clerks probably didn't like it. Go ahead.
 3 Q. So, Mr. Capogrosso, you said you
 4 called the district attorney, and then there
 5 was an investigation, and then she wasn't
 6 there any more; is that correct?
 7 A. I don't know if there was an
 8 investigation. Nobody ever reported anything
 9 to me.
 10 To me, I did my job. I saw --
 11 Q. So you called the district
 12 attorney, and she was not there anymore?
 13 A. Yes.
 14 Q. Do you know -- do you know if she
 15 was kicked out?
 16 A. All I know is Gelbstein
 17 approaches me and says, who are you, Don
 18 Quixote?
 19 I have no idea. Nobody gave me a
 20 report as to what happened. I told the
 21 district attorney what I saw; I told them.
 22 And after that, I don't see her anymore.
 23 And that is -- if you look at the
 24 exhibits, the date of that alleged incident
 25 between me and her is the date I made the

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1 Mario H. Capogrosso
 2 call, I believe, right around that date.
 3 Q. And sitting here today, do you
 4 remember what year that was?
 5 A. Well, I am not going to look at
 6 my exhibits; so no, I don't recall.
 7 Q. Was it before that first lawsuit
 8 that you had in 2012?
 9 A. Like I said, I don't remember.
 10 And I am not going to look at the
 11 exhibit. You told me not to.
 12 Q. All right. Was it before 2015?
 13 A. Absolutely, yes.
 14 Q. Okay. And similarly, the time
 15 when Judge Gelbstein was having the two
 16 Jewish ticket brokers, the father and son, in
 17 his office, do you remember when that was,
 18 what year?
 19 A. Oh, I sure do. That is the first
 20 day I got there.
 21 And I understood who the players
 22 were, who were the brokers, who these ticket
 23 brokers were and what they did. I saw them
 24 right from day one.
 25 Q. And was there a time that it

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1 Mario H. Capogrosso
 2 stopped, him seeing those two Jewish ticket
 3 brokers?
 4 A. No. Up until the date May
 5 11th -- up until May 11th, I still saw them
 6 down there. Up to May 11th, they were still
 7 there.
 8 Q. Okay.
 9 A. Let me tell you the worst thing,
 10 because I gotta get this one out. The worst
 11 thing that really got me about this is when I
 12 saw Gelbstein in the GE on a side bar, on a
 13 side bar with Judge Bohmstein, Al.J Bohmstein,
 14 pleading motorists guilty and rescheduling
 15 cases. Then I just threw my hands up. I
 16 said, this is terrible.
 17 Q. What is it that you saw? Can you
 18 describe it to me in a little more detail?
 19 A. Judge Gelbstein, I had some
 20 tickets GE, general -- waiting to be heard.
 21 I am sitting there. He walks in with about
 22 10 or 15, 20 tickets in the thing, before Al.J
 23 Bohmstein sitting there.
 24 I am entering a guilty plea on
 25 this ticket, this ticket, this ticket, five

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1 Mario H. Capogrosso
 2 or six or seven. What the heck is going on
 3 down here? This is a judge who has access to
 4 every, every ticket in the system in his
 5 office. On a computer system, he has access.
 6 He has access to all of them.
 7 If he needs to reschedule a case
 8 because something -- he can do it in office.
 9 He is doing GE before another judge, not on
 10 the record. There was no appearance made.
 11 I said -- I throw my hands up. I
 12 can't work in this type -- I can't work here.
 13 This is terrible.
 14 Q. I am sorry, I may not understand
 15 this. But if Judge Gelbstein is talking with
 16 this other judge, you said Judge Bohmstein?
 17 A. Yeah, on a side bar.
 18 Q. How do you spell Bohmstein?
 19 A. B-O-H-M-S-T-E-I-N,
 20 B-O-H-M-S-T-E-I-N.
 21 THE COURT REPORTER: Counselor?
 22 Q. So?
 23 THE COURT REPORTER: Counselor?
 24 Counselor?
 25 THE WITNESS: Yes.

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1 Mario H. Capogrosso
 2 THE COURT REPORTER: I need to go
 3 off the record.
 4 MR. THOMPSON: Yes.
 5 THE COURT REPORTER: You need to
 6 go off the record for two minutes.
 7 THE VIDEOGRAPHER: The time is
 8 10:48 a.m. we are off the record.
 9 (Discussion off the record).
 10 THE VIDEOGRAPHER: The time is
 11 10:50. We are on the record.
 12 Q. So, Mr. Capogrosso, we were
 13 discussing an instance when you saw Judge
 14 Gelbstein in the GE room rescheduling cases.
 15 And I may not understand it.
 16 But what is wrong with him
 17 rescheduling cases, as a judge?
 18 A. If you are carrying a caseload --
 19 this is what I am thinking. If you are
 20 carrying a caseload, let me tell you how the
 21 game is played. Attorneys take tickets in,
 22 and they would push the tickets out,
 23 reschedule three, four, five, six times,
 24 stretch the money, they would call. They
 25 would stretch the money. You get \$200 a

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1 Mario H. Capogrosso
 2 ticket, you stretch it out for two years, and
 3 plead the guy guilty, and you give the guy no
 4 points. You give the motorist no points.
 5 It is called stretching the
 6 money, which is what the attorneys were
 7 doing. A lot of attorneys would go to the
 8 courtroom and enter a guilty plea, which is
 9 one way of handling a ticket.
 10 If you stretch it out 18 months,
 11 the points don't show up on your license. If
 12 you reschedule a whole bunch of cases, and
 13 you push them out 18 months, and then you
 14 enter a guilty plea for the guy, and he
 15 doesn't get suspended, and they waive the
 16 STV, and they give them a minimum fine, you
 17 know, the motorist goes home happy.
 18 My license is still good. I am
 19 happy I got a minimum fine. I am not
 20 suspended. That is one way you can play the
 21 game.
 22 Did I play it like that? No.
 23 They hired me to fight a ticket, I fought a
 24 ticket; so my clients liked me.
 25 Q. So, Mr. Capogrosso, I guess I

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1 Mario H. Capogrosso
 2 still don't understand what you contend is
 3 wrong about what Judge Gelbstein did.
 4 Because if he is a judge, and he is talking
 5 to another judge to set up the docket, and
 6 when cases will be heard, is there anything
 7 wrong with that?
 8 A. I am told -- I don't know. I
 9 don't know. I am -- I reported what I saw
 10 and what I heard. I don't know. I reported
 11 what -- if you reschedule things on a sidebar
 12 without putting in an appearance, and you are
 13 entering guilty pleas without putting in an
 14 authorization, to me, there is something
 15 wrong.
 16 I don't know. Maybe he had a
 17 legitimate purpose. I reported what I saw
 18 and what I heard.
 19 I know I had a conflict with
 20 another attorney over a ticket that we were
 21 put in a room. We bought, put the same one
 22 in I want to speak with him about.
 23 He says, I am covering the case
 24 for Gelbstein.
 25 Q. So let's put a pin on that one

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1 Mario H. Capogrosso
 2 and come to that in just a second.
 3 This instance when you saw Judge
 4 Gelbstein rescheduling tickets with judge
 5 Bohmstein --
 6 A. And entering guilty pleas.
 7 Q. -- and entering guilty pleas.
 8 First of all, you said you
 9 reported that.
 10 Who did you report that to?
 11 A. Who did I report it to? No, at
 12 that point I said, I can't work here anymore.
 13 At that point after I was removed, after I
 14 was removed, there is nobody to report it to.
 15 Nobody is listening.
 16 I write to your office. Your
 17 office doesn't respond to me in my letter of
 18 complaint. I wrote a letter to Prickett
 19 Morgan, March 20th. I got no response.
 20 I have written to the grievance
 21 committee. I explained this in the grievance
 22 committee. They don't care. They said they
 23 have no authority over this.
 24 I have wrote to the Inspector
 25 General's office. They told me it is an

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1 Mario H. Capogrosso
 2 internal review. I wrote to the Commission
 3 of Judicial Conduct. They have no control
 4 over what goes on at the TVB, because it is
 5 not a recognized tribunal.
 6 I forgot who else I wrote to, but
 7 I wrote and I explained everything that I
 8 saw. And they all told me they have no
 9 jurisdiction over this tribunal and what goes
 10 on.
 11 Q. And so my next question is, this
 12 time when you saw Judge Gelbstein speaking
 13 with Judge Bohmstein and doing this with the
 14 cases, when was that, approximately?
 15 A. That was right before this
 16 happened that I got removed. It was maybe a
 17 month or less before I got removed, May 11,
 18 2015.
 19 Q. So April or May of 2015?
 20 A. Yeah. The first time I ever --
 21 Q. Do you have any reason to believe
 22 that the adjournments and guilty pleas that
 23 you saw were not valid, were not correct?
 24 A. As an attorney, if you to tell me
 25 how do I get a piece of the action, if you

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1 Mario H. Capogrosso
 2 have ticket brokers in your office, and you
 3 tell me you don't know what they do for a
 4 living, but they are friends of your wife,
 5 and you don't know what they do for a living;
 6 when you have a discrepancy with another
 7 lawyer, and he tells me I am covering the
 8 case for Gelbstein, and then you see this
 9 happening in the GE, and then I make
 10 complaints and complaints and complaints
 11 against concerning the action of Defendant
 12 Smart, right, and he laughs and giggles and
 13 tells me a spade is a spade, and he doesn't
 14 respond to any of the complaints, right.
 15 The harassment continues. The
 16 man wants me out. The man wants me out. He
 17 doesn't me to see what he is doing. He wants
 18 me out, and he got me there.
 19 Q. I appreciate that.
 20 Mr. Capogrosso, but the question was a little
 21 bit more narrow than that.
 22 These specific adjournments and
 23 these specific guilty pleas in this
 24 conversation between Judge Gelbstein and
 25 Judge Bohmstein, do you know whether or not

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1 Mario H. Capogrosso
 2 those adjournments and guilty pleas were
 3 correct?
 4 A. No, I said I have no idea. I
 5 reported what I saw and heard. That is it.
 6 I have no idea what he was doing.
 7 I don't know. I never questioned him about
 8 it. At that point, I just threw my hands up.
 9 I don't know what he was doing. I reported
 10 truthfully what I heard and what I saw. That
 11 is not my job to make this investigation. It
 12 is not my job.
 13 Q. So lastly you mentioned one other
 14 incident, when you say someone said that he
 15 was covering a case for Judge Gelbstein.
 16 Can you explain to me what you
 17 are discussing there?
 18 A. We both put a ticket in.
 19 Sometimes clients they hired two lawyers
 20 because they lose track of something. They
 21 got two lawyers on the same summons. We both
 22 put the ticket into GE, into the courtroom.
 23 I go in the courtroom, the clerk
 24 or the court -- and it has happened several
 25 times. There is a lot of clients, a lot of

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1 Mario H. Capogrosso
 2 motorists. Sometimes they hire the same
 3 lawyer. There are lawyers on both -- there
 4 is two lawyers on the same ticket, for
 5 whatever reason.
 6 So I will go up to this other
 7 attorney. I said, what is going on? And he
 8 tells me, I am covering the case for
 9 Gelbstein. I said, do what you gotta do.
 10 And I pulled off my ticket, and I
 11 said, you want to cover it, go ahead.
 12 And then I am thinking back to
 13 myself, what is going on here? You are
 14 covering the case for Gelbstein. Who am I
 15 going to report it to? I am going to report
 16 it to Judge Gelbstein. Who is listening to
 17 these complaints?
 18 I reported it to Bushra Vahdat.
 19 Who wants to listen to these complaints, so I
 20 let it go.
 21 Q. So, Mr. Capogrosso, first of all,
 22 who is the attorney who said he was covering
 23 the case for Judge Gelbstein?
 24 A. Eugene Gerbasi.
 25 Q. Eugene Gerbasi.

20 (Pages 74 - 77)

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1 Mario H. Capogrosso
 2 Can you spell Gerbasi for me?
 3 A. I believe G-E-R-B-A-S-I.
 4 Q. And so when he said was covering
 5 the case, what did that mean?
 6 A. That means he was going to argue
 7 the case. In my opinion, that is what it
 8 meant.
 9 Q. Okay. So let me ask, what's --
 10 what's wrong with him arguing a case?
 11 A. You are arguing a case for a
 12 judge.
 13 I don't know. I don't know.
 14 Maybe there is nothing wrong with it. I
 15 reported what I heard. I don't know. You do
 16 your investigation. That is not my job. I
 17 reported truthfully what I heard, what I saw.
 18 I don't know.
 19 Q. So he said he was covering -- he
 20 said he was covering a case.
 21 You know, was Judge Gelbstein the
 22 person with the ticket, or I guess what is
 23 your concern about?
 24 A. I don't know. He said he is
 25 covering a case for Gelbstein.

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1 Mario H. Capogrosso
 2 If you see ticket brokers -- if I
 3 see ticket brokers in your office, and you
 4 tell me you don't know what they are doing
 5 for a living, I see you pleading guys in the
 6 GE and rescheduling cases, and if another
 7 attorney tells me he is covering a case for
 8 you, my opinion -- and only my opinion, which
 9 I am entitled to -- you got a caseload. You
 10 got a caseload, and you are trying to get a
 11 piece of the action. That is my opinion.
 12 Q. When you say you have got a
 13 caseload, you think he is practicing law as
 14 an attorney at the TVB?
 15 A. As well as being a judge. Yeah.
 16 that is my opinion. That is my opinion. I
 17 don't know if it is true or not. That is not
 18 my job. That is my opinion. I don't know if
 19 it is true. I don't know if that is true. I
 20 reported what I saw and what I heard.
 21 Q. But you never saw Judge Gelbstein
 22 arguing a case at the TVB or representing a
 23 client at THE TVB; is that correct?
 24 A. No, I never saw him do that. No.
 25 Q. Let's take a step back,

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1 Mario H. Capogrosso
 2 Mr. Capogrosso.
 3 Why did you decide to sue in this
 4 case?
 5 A. I want to go back to practicing
 6 law at New York TVB. I want to clear my
 7 name. I want to clear my name.
 8 I was removed from the Brooklyn
 9 TVB on May 11, 2015. Nobody looked at this
 10 videotape, which we established that
 11 yesterday. Nobody looked at it.
 12 Did an Danielle Calvo, somebody
 13 told her that there was an incident between
 14 me and Smart. Danielle Calvo makes a call to
 15 Judge Gelbstein. Gelbstein calls Traschen.
 16 and Traschen tells Calvo to have me removed.
 17 Nobody looks at the videotape.
 18 The videotape was never kept. It is lost.
 19 There is affidavit and affidavit and
 20 accusations made against me and my name and
 21 my reputation as a lawyer that I was never
 22 served with so I could respond.
 23 I asked yesterday, how come you
 24 didn't file an affidavit? I never received a
 25 complaint. I can't respond to a complaint if

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1 Mario H. Capogrosso
 2 I never received it.
 3 I wrote to -- and nobody is --
 4 and I wrote to Traschen. I wrote to Bushra
 5 Vahdat. And I wrote to Judge Gelbstein, and
 6 I wrote to your office.
 7 And when I write to your office
 8 concerning my concern -- detailing my
 9 concerns what is going on, I get no response
 10 from any of these offices.
 11 And then I have some security
 12 guard approach me on the morning of May 11th.
 13 instigates an altercation, and I am removed
 14 within five minutes.
 15 I want to clear my name. I think
 16 I was set up. I think Judge Gelbstein and
 17 all these other parties wanted me out because
 18 I wasn't playing the game.
 19 And I want to clear my name. I
 20 want to get back to work. I want the money
 21 that I lost. And I think whoever did this,
 22 especially if they are judges, should get
 23 punished. They should not be a judges, and
 24 they should not be represented --
 25 Q. When you say they wanted you out

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1 Mario H. Capogrosso
 2 because you weren't playing the game. what do
 3 you mean?
 4 A. I was not playing off the clerks.
 5 I was not paying off the clerks. I was not
 6 dealing with ticket brokers. I was not
 7 giving the clerks part of this court money
 8 and cash for the holidays.
 9 The other attorneys were.
 10 Several attorneys walked up to me, how much
 11 you giving the clerks for Christmas? I said,
 12 I am giving them nothing. I am giving them
 13 nothing.
 14 I gotta pay them. They have a
 15 job to do. They get paid. I am not giving
 16 them any more money.
 17 Attorney said, why don't you buy
 18 them breakfast? I am not going to buy them
 19 breakfast in the morning. I am not doing
 20 that. There is an appearance of impropriety.
 21 I refuse to participate.
 22 There was an appearance. I don't
 23 know if you are allowed to do it or not. I
 24 don't know if you are allowed to give the
 25 clerks money. I don't know if you are

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1 Mario H. Capogrosso
 2 allowed to give them breakfast. give them
 3 parties. There was appearance of
 4 impropriety.
 5 I chose not to participate. I
 6 chose not to.
 7 Q. And you think that everyone
 8 wanted to get rid of you because you weren't
 9 paying money for the clerks?
 10 A. I don't know why they wanted to
 11 get rid -- they didn't like me. They didn't
 12 like my approach, my style, whatever. They
 13 didn't like me. I knew that.
 14 My clients loved me. My clients
 15 loved me. You don't have one grievance from
 16 or complaint from a client over ten years of
 17 service in this tribunal. Ten years I was
 18 down there, from motorist or a client. Other
 19 than maybe a fee dispute or something, that
 20 is it. Other than this one to Mr. Perez, I
 21 never got -- I can't explain what happened
 22 there. Not one complaint --
 23 Q. We will discuss Mr. Perez in a
 24 bit later today.
 25 Taking a step back, you mentioned

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1 Mario H. Capogrosso
 2 ticket brokers.
 3 Let me ask you, the practice of
 4 ticket brokers, people who bring cases in in
 5 exchange for a cut of the attorney's fees, is
 6 that legal or is that illegal?
 7 A. I have no idea. I don't know.
 8 I think if you are calling
 9 yourself a lawyer, and you are taking a the
 10 fee and representing that you are an
 11 attorney, and you take that fee, I think that
 12 is terrible. I think that is wrong.
 13 I think if you go into the ticket
 14 counter, like Tanya Rabinovich was doing, and
 15 the clerks were giving a whole of bunch
 16 summons for the day and rescheduling cases
 17 for her, and she is not a lawyer, I think
 18 that is practicing law.
 19 I think that is wrong. I think
 20 that is wrong. Absolutely wrong. Because
 21 now you are acting -- now you are taking an
 22 authority over that summons.
 23 I don't know. And you are --
 24 and maybe you are even pleading guilty.
 25 Maybe she was pleading them guilty, too. You

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1 Mario H. Capogrosso
 2 can do that at the counter.
 3 Q. But, Mr. Capogrosso, assuming
 4 that the ticket broker isn't holding
 5 themselves out to be anything but a ticket
 6 broker, is there anything illegal or
 7 unethical about the practice?
 8 A. I don't know. I don't know. If
 9 you are calling yourself a ticket broker, I
 10 don't know. I don't know.
 11 I think if you make the
 12 representation that you are lawyer, that is
 13 wrong, or you are making --
 14 Q. And --
 15 A. I think that is wrong. I think
 16 if you come down to the DMV with a ticket,
 17 and the attorney takes the ticket and doesn't
 18 talk to the client directly, directly. I
 19 think that is wrong. Because then you don't
 20 know what the client expectation is under.
 21 The attorney is not talking to
 22 the client himself, he is talking to an
 23 intermediary, and I think that is wrong. You
 24 should have some type of interaction with the
 25 lawyer directly.

22 (Pages 82 - 85)

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1 Mario H. Capogrosso
 2 I don't know if it is right or
 3 wrong. You are the Attorney General; that is
 4 your decision.
 5 I am telling you what I saw and
 6 what I heard. I am telling you that I didn't
 7 feel comfortable dealing with these people.
 8 I did not.
 9 Q. Mr. Capogrosso, sitting here
 10 today, you are not aware of any statute or
 11 regulation or source of authority that says
 12 that ticket brokers are not legal or
 13 permissible; is that correct?
 14 A. I think you can't make a
 15 representation that you are a lawyer when you
 16 are not a lawyer and collect a fee.
 17 Q. But --
 18 A. I think that is wrong.
 19 Q. Leaving aside if they don't
 20 represent that they are a lawyer, you are not
 21 aware of any statute prohibiting ticket
 22 brokers, correct?
 23 A. I don't know.
 24 Q. Statute or --
 25 A. I didn't think its ever been

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1 Mario H. Capogrosso
 2 broached, this question.
 3 Q. Okay.
 4 A. I don't think the question has
 5 ever been looked at.
 6 Q. Mr. Capogrosso, did there come a
 7 time when ticket brokers were banned from the
 8 TVB?
 9 A. I saw ticket brokers there up
 10 until the day I left, so obviously they were
 11 not banned. I saw them up till the day -- I
 12 know some paralegals were banned because they
 13 were taking money, stealing money, but I
 14 didn't see ticket brokers banned.
 15 Q. So your testimony is no, there
 16 was never a ban on ticket brokers?
 17 A. Not that I was aware of. I
 18 always saw them down there, even up to the
 19 day I was asked to leave.
 20 Q. All right. So a couple more
 21 questions about bringing the case.
 22 You were expelled from practice
 23 in 2015. You brought this case in 2018.
 24 Why did you wait so long to bring
 25 the case?

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1 Mario H. Capogrosso
 2 A. I wanted to see if they had
 3 anything against me. Seriously. I gave them
 4 three years to bring their case against me.
 5 They wanted to sweep my complaints and
 6 everything I had under the rug. If there was
 7 a complaint against me or my office, you
 8 could have aggrieved me.
 9 I was waiting for a grievance. I
 10 was waiting for them to sue me. If I had
 11 assaulted this security guard, I could have
 12 been sued for assault. They brought nothing
 13 against me for three years. I waited three
 14 years to see if they had anything against me.
 15 They had nothing against me.
 16 Nothing. Not an assault, not a criminal
 17 charge, not a grievance to the grievance
 18 committee, nothing. They had nothing to hold
 19 their hat on, other than they removed me
 20 improperly. And I think they set me up that
 21 morning. I waited three years because I
 22 wanted to see if they had anything against
 23 me, and they didn't.
 24 Q. Is it possible they were just
 25 satisfied that you were no longer at TVB?

1 Mario H. Capogrosso
 2 A. I know they wanted me out. They
 3 wanted me out, and they got me out, and they
 4 wanted -- and they wanted to ignore any
 5 complaints or any follow-up.
 6 They didn't want to talk to me.
 7 I wrote letters, I made phone calls. Nothing
 8 was answered. I wrote letters to your
 9 office, it wasn't answered. I wrote to
 10 Traschen, Bushra Vahdat, Gelbstein. They
 11 were all ignored.
 12 I was charged -- I was not
 13 charged by the police. There was nothing
 14 they had against me. I did nothing wrong.
 15 Q. And so you were expelled in May
 16 of 2015.
 17 Why didn't you bring an Article
 18 78 proceeding?
 19 A. Because I couldn't get money. I
 20 had money that I had to return, that I was
 21 due. I couldn't get money in an Article 78
 22 proceeding.
 23 I wanted a Federal Court judge on
 24 this case. I was tired with this New York
 25 State Court, everybody protecting one another

23 (Pages 86 - 89)

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1 Mario H. Capogrosso
 2 and brushing complaints under the rug. I was
 3 tired of it. I wanted a Federal Court judge
 4 to listen to this complaint, because they
 5 stand above it. That was my opinion. I
 6 wanted a Federal Court judge, number one.
 7 And two, I was owed money, and I
 8 can't get that in an Article 78 proceeding.
 9 Q. So you think -- so you think the
 10 New York State Courts were corrupt?
 11 A. No. I didn't think I was going
 12 to get a fair hearing.
 13 Q. Why not?
 14 A. I wanted a Federal Court judge.
 15 I wanted a judge who stood above it.
 16 Q. Why didn't you think you would
 17 get a fair hearing in Kings County Supreme
 18 Court?
 19 A. I didn't think I would.
 20 Q. Why not?
 21 A. I saw how all the judges at the
 22 TVB were treating me. I saw how the judges
 23 at the TVB, Judge Gelbstein, laughing and
 24 giggling when I made my complaint; a spade is
 25 a spade. Bushra Vahdat lying, a judge lying.

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1 Mario H. Capogrosso
 2 I can go into her lies. Traschen not
 3 returning phone calls.
 4 I saw how I was being treated. I
 5 didn't think I was going to get a fair
 6 chance. That was my decision.
 7 I told you why I made it. I
 8 wanted to see, number one, if they had
 9 anything against me, either criminally or by
 10 way of a grievance, and they do not.
 11 And two, I wanted a judge who
 12 stood above it all.
 13 And three, I was owed money.
 14 Q. So if you felt that the State
 15 Supreme Court was going to be corrupt or
 16 unfair, why would --
 17 A. I didn't say that. I said I
 18 wasn't going to get a fair chance.
 19 MR. THOMPSON: Withdrawn.
 20 Q. If you felt the State Supreme
 21 Court was going to be unfair, why would the
 22 Federal Court be any different?
 23 A. I told you my belief is a Federal
 24 Court judge sits above this, sits above it.
 25 That is just my opinion. I am entitled to my

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1 Mario H. Capogrosso
 2 opinion. And I wanted the money owed to me
 3 on this case.
 4 Q. All right.
 5 MR. THOMPSON: Hold on one
 6 second. And this maybe a little dicey,
 7 because we are doing this over Zoom, but
 8 I am going to share a document with you
 9 and with everyone. So please, everyone
 10 let me know if there is a problem
 11 viewing this.
 12 Can everyone see this document?
 13 THE WITNESS: Yes.
 14 MR. THOMPSON: Mr. Videographer
 15 and Madam Court Reporter, can you see
 16 the document?
 17 THE COURT REPORTER: Yes.
 18 MR. VIDEOGRAPHER: I am sorry.
 19 My mic was muted.
 20 I see it, Counsel.
 21 MR. THOMPSON: Okay. Very good.
 22 Q. Mr. Capogrosso, do you recognize
 23 this document?
 24 A. My affirmation of service.
 25 Q. I will scroll down to page two.

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1 Mario H. Capogrosso
 2 because that may make it a little easier to
 3 recognize.
 4 A. Yeah. My response to your
 5 interrogatories, yeah. Yes, I do.
 6 Q. And this is your document that
 7 you wrote, correct?
 8 A. Yes. Well, I have to see my
 9 signature. But yeah, I would assume it is.
 10 Q. We can go down here to page --
 11 A. Yeah, that is my signature.
 12 Q. -- 17. That is your signature?
 13 A. Yes.
 14 MR. THOMPSON: Madam, I ask you
 15 to mark this as Defendant's 1, with the
 16 understanding that we discussed before
 17 that it will actually be formally marked
 18 once it is entered into the Veritext
 19 server after the deposition.
 20 Is that something that you need
 21 to explain on the record, Madam Court
 22 Reporter?
 23 THE COURT REPORTER: No.
 24 (Whereupon, a document was deemed
 25 marked as Defendant's Exhibit 1 for

24 (Pages 90 - 93)

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1 Mario H. Capogrosso
 2 identification, as of this date.)
 3 Q. Let's go down to page 17. And
 4 again, you said this was your signature?
 5 A. Yes.
 6 Q. And this declaration on page 18,
 7 you declared that, correct?
 8 A. Yes.
 9 Q. So do you still believe
 10 everything in your interrogatory responses is
 11 true and correct?
 12 A. I signed it, so yes.
 13 Q. Are you aware under the Federal
 14 Rules, you have the right and the obligation
 15 to amend your responses if anything is not
 16 correct or if there is an important omission?
 17 A. Yes. I am trying to be truthful,
 18 yes.
 19 Q. Okay. So let's go up there to
 20 interrogatory one. We are on page five. I
 21 would like to talk a little bit about the
 22 damages that you are claiming in this case.
 23 A. All right.
 24 Q. So interrogatory number one, we
 25 asked you for a calculation of damages and

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1 Mario H. Capogrosso
 2 how they were calculated.
 3 The first category you see, you
 4 said plaintiff seeks punitive damages in an
 5 amount to be determined, but not to exceed 20
 6 million dollars, as stated in your complaint.
 7 How much punitive damages are you
 8 actually seeking, because there is sort of
 9 not a specific figure.
 10 A. Everything I stated in my
 11 complaint, 20 million dollars per count. I
 12 have to have look at my --
 13 Q. 20 million dollars?
 14 A. It is my count.
 15 Q. So you are seeking 20 million
 16 dollars in punitive damages?
 17 A. Yeah, sure. Absolutely.
 18 Q. Where does that figure come from?
 19 A. These are judges. Judges who
 20 acted wrongly. Judges who acted wrongly to
 21 have damaged my name and reputation, and they
 22 need to be honest. That is my opinion. That
 23 is for a jury to decide how much.
 24 Q. When you say judges, do you
 25 mean -- who specifically do you mean?

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1 Mario H. Capogrosso
 2 A. Judge Gelbstein. Bushra Vahdat.
 3 the worst of them, Bushra Vahdat. Ida
 4 Traschen, your clerical staff, Danielle
 5 Calvo, who never looked at the videotape and
 6 had me removed. Who else? Melanie Levine,
 7 another clerical supervisor who I didn't
 8 mention.
 9 Q. Okay.
 10 A. David Smart, who approached me
 11 and instigated this.
 12 Q. And you want them all to be
 13 punished?
 14 A. Yes, I do. Yeah, yes. The jury
 15 is going to make that determination.
 16 But do I seek punishment? Yes.
 17 Q. And are you aware that Ms. Vahdat
 18 is no longer a defendant in this case, and I
 19 don't believe Ms. Levine was ever a defendant
 20 in this case?
 21 A. True. That is true.
 22 Q. So this figure, this 20 million
 23 dollar figure, where does that come from?
 24 A. Where does it come from?
 25 Q. Yes?

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1 Mario H. Capogrosso
 2 A. That is just a number.
 3 It comes from my heart. That is
 4 where it comes from. It is how I felt when I
 5 wrote this complaint. What these judges,
 6 this tribunal did to me, it comes from my
 7 heart.
 8 Q. So there is no formula that you
 9 used to get there?
 10 A. I don't know how you arrive at a
 11 formula for punitive damages. I don't know
 12 if there is formula.
 13 Q. So no?
 14 A. It comes from my heart. It comes
 15 from the damage to my reputation and my name,
 16 which I value at 20 million dollars. All
 17 right. The damage to my name and reputation
 18 as a lawyer, as a lawyer that I want to
 19 continue practicing.
 20 And I told you, I am going to
 21 work until I drop, and I want to continue to
 22 work my whole life.
 23 Damage to my name and reputation
 24 as a lawyer, that is where it comes from.
 25 Q. So were --

25 (Pages 94 - 97)

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1 Mario H. Capogrosso
 2 A. And I have to explain this
 3 number, explain my removal to any court that
 4 I seek admittance to. Any court, I have to
 5 explain this somehow.
 6 Q. So why 20 million dollars and not
 7 50 million dollars or five million dollars or
 8 500,000?
 9 A. I don't -- let's see. All right.
 10 Let's see. Normally -- I am 58 when I wrote
 11 this. I want to work at least -- I was
 12 figuring a million dollars a year for the
 13 next 20 years, the damage to my name and
 14 reputation.
 15 Q. So you viewed this punitive
 16 damage as covering the damage to your name
 17 and reputation, correct?
 18 A. Name, reputation and for the
 19 wrongful conduct, the wrongful, improper
 20 conduct of judges, the clerical staff at the
 21 Brooklyn TVB; wrongful, egregious conduct of
 22 these judges and this clerical staff, yes.
 23 Q. So moving to item number two, you
 24 say \$122,715 in lost revenue, representing
 25 approximately 15 months of projected

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1 Mario H. Capogrosso
 2 receipts.
 3 Can you explain how you came to
 4 that figure?
 5 A. I gave you my exhibit. That was
 6 the money that I had collected, the money
 7 that I was owed to me. It was the total
 8 monies owed, I think.
 9 And I gave you my breakdown that
 10 was still on my calendar, that I either would
 11 have earned or collected if I was given the
 12 ability to represent to finish my caseload.
 13 It was \$122,000, and was still remaining on
 14 my caseload going forward.
 15 Q. Okay.
 16 A. From May 11th, the day I left, my
 17 caseload showed \$122,000.
 18 Q. So these were cases that you had
 19 already -- that you had already argued and
 20 conducted, that you had outstanding bills
 21 for, or these were cases that you were going
 22 to argue in the future?
 23 A. Going to argue in the future,
 24 that I was not able to earn.
 25 Q. Okay. And you had already -- and

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1 Mario H. Capogrosso
 2 you had already collected this money; is that
 3 correct?
 4 A. Part of it was collected. Not
 5 all of it.
 6 It was due. All of that was due.
 7 Part it was, part of it wasn't. It is all in
 8 the exhibit to you.
 9 MR. THOMPSON: So let's go to
 10 that exhibit. I am going to figure out
 11 how to stop sharing my screen. Please
 12 bear with me. I am having some
 13 technical difficulties.
 14 Can you guys see Exhibit 2 now?
 15 THE WITNESS: No.
 16 MR. THOMPSON: You are seeing the
 17 same thing?
 18 THE WITNESS: Yes. not seeing any
 19 exhibits.
 20 MR. THOMPSON: You are not seeing
 21 anything?
 22 THE WITNESS: No.
 23 MR. THOMPSON: All right. Can
 24 everyone see this?
 25 THE WITNESS: Yes.

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1 Mario H. Capogrosso
 2 MR. THOMPSON: Okay. So let's
 3 rotate this, just so that it is facing
 4 up.
 5 So can everyone see this document
 6 here?
 7 THE VIDEOGRAPHER: Yes. Counsel.
 8 THE WITNESS: Yes.
 9 Q. And, Mr. Capogrosso, do you
 10 recognize this document?
 11 A. Yes.
 12 Q. What is it?
 13 A. That is my Excel worksheet that
 14 shows my -- the date that I was initially
 15 hired, the location.
 16 I kept a very detailed calendar.
 17 very detailed. The subject matter would show
 18 the client's name and the ticket, which I
 19 redacted; the due date, which is the date I
 20 had to be in court; the total amount that I
 21 charged on the case, the amount that was paid
 22 and the amount that was owed.
 23 Now, on the ones that are on the
 24 right there, it wasn't a Brooklyn TVB case or
 25 a TVB case for Red Hook, it was down in

26 (Pages 98 - 101)

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1 Mario H. Capogrosso
 2 criminal court. I moved that to the right.
 3 I didn't feel that was appropriate.
 4 Q. So for instance, you are talking
 5 about this line here, and I am
 6 highlighting --
 7 A. Yes.
 8 Q. -- this line here, Monday,
 9 April 27, 2015, due Monday, May 18, 2015?
 10 A. Which myself. I had to be --
 11 Q. Page one.
 12 A. I had to be on Red Hook, which is
 13 criminal court, down in Brooklyn, on May --
 14 and that was -- gave me 300 on that case.
 15 Yes, so I didn't put that in
 16 there, because it wasn't a TVB case.
 17 Q. Just for the record, this
 18 document is number P191 through P206,
 19 correct?
 20 A. That was my Bates Stamp when I
 21 submitted the document to you.
 22 Q. Can you explain to me what the
 23 start date means?
 24 A. The start date was when I
 25 initially got hired on, the date.

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1 Mario H. Capogrosso
 2 Q. So I have noticed some of these
 3 start dates are after your expulsion from the
 4 TVB. For instance, I am looking at the
 5 bottom of page P191, and there is two --
 6 there is a number of items that are marked
 7 Thursday, May 21, 2015. One is BS, one is
 8 appeal, one is STLISL, and one Kent.
 9 Can you explain to me what those
 10 mean?
 11 A. Yeah, I don't know. Maybe that
 12 is just a clerical error.
 13 I know I took on no new cases
 14 after I was removed. I don't know how that
 15 happened. Maybe it was just a clerical --
 16 Q. What is --
 17 A. I don't know. I seriously I
 18 don't know. I don't know.
 19 Q. What do those four -- my
 20 apologies, Mr. Capogrosso. You can keep
 21 answering, if you have more that you need to
 22 say.
 23 A. I don't know why that is like
 24 that. I don't understand that.
 25 I know I didn't appear in any

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1 Mario H. Capogrosso
 2 court after May 11th. I was ordered not to.
 3 and I did not. I didn't take any new cases
 4 on after May 11th and have the ability --
 5 Q. And so --
 6 A. Go ahead.
 7 Q. And so what is -- is BS. Brooklyn
 8 South?
 9 A. Yes.
 10 Q. What is appeal?
 11 A. Appeal, they hired me on an
 12 appeal.
 13 Q. Is that DMV appeals court?
 14 A. Yes. But I didn't take anything
 15 after May 11th.
 16 Q. What is STLISL?
 17 A. Staten Island.
 18 Q. And what is Kent?
 19 A. That would have been Upstate.
 20 which I moved to the right. That is an
 21 Upstate court that I was hired on.
 22 Q. Is that Kent County?
 23 A. It was Kent -- Kent -- Kent.
 24 Yeah, I don't know.
 25 I would have written it out with

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1 Mario H. Capogrosso
 2 the Kent County Village Court Upstate.
 3 Q. And so the due date starts on
 4 May 11, 2015, because these are future cases
 5 that you were going to handle in the future:
 6 is that correct?
 7 A. Yes, that I was not able to.
 8 Q. Can you explain how you billed
 9 your cases? Did you charge by the hour or
 10 case?
 11 A. The motorists would come in.
 12 They knew me. They would approach me.
 13 I never approached a motorist.
 14 never. There were signs all over the place
 15 not to -- the other attorneys did, solicited
 16 left and right. I didn't.
 17 They approached me, asked me if I
 18 am a lawyer. A lot of guys knew me already.
 19 they walked up to me. You want to take the
 20 case? Yes. Took out my legal pad. I wrote
 21 down their name, their phone number, their
 22 license ID, license number, their date of
 23 birth, which is the information I needed.
 24 The court in which it was in.
 25 which is mostly Brooklyn South. I wrote them

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1 Mario H. Capogrosso
 2 a receipt the way all the attorneys did it.
 3 We wrote it on the back of a business card.
 4 for the most part. Put the total, the amount
 5 paid, the amount owed. I gave them the
 6 receipt. I had my legal pad, showed
 7 everything, all the information I took.
 8 And I calendared it. I put it in
 9 my calendar. Oftentimes these due dates got
 10 changed, all the time. All the time, the due
 11 dates got changed. Cases were being
 12 rescheduled constantly.
 13 Albany has the ability to
 14 reschedule a case. The motorist can
 15 reschedule a case. The police officer can
 16 reschedule a case. I can reschedule a case.
 17 The DMV can reschedule a case. The cases got
 18 rescheduled all the time. Those due dates
 19 changed all the time.
 20 Q. So, Mr. Capogrosso, that
 21 wasn't -- I appreciate that.
 22 I think the question was a little
 23 bit narrower, which was how did you charge
 24 for your services? Did you bill by the hour?
 25 A. No, each ticket. Each ticket.

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1 Mario H. Capogrosso
 2 Q. So you billed by the ticket?
 3 A. Yeah. 150, 250. The total was
 4 the amount I billed. That column that says
 5 total, that is the amount that I charged.
 6 Q. And how did you know how much to
 7 charge?
 8 A. Which is what everybody -- just
 9 the going rate that everybody was charging.
 10 If the case was in Brooklyn
 11 South, and it was that day, normally I
 12 charged a hundred. If it was -- you know,
 13 other than that, I normally charge 150,
 14 because the case, like I say, got pushed out
 15 several times over.
 16 If it was that day, it was
 17 charged a hundred. If it was like, I don't
 18 know, tinted window, I charged less, because
 19 it didn't carry no point violations.
 20 If it was in another county, I
 21 charged more, because I had to travel there.
 22 If it was like in Manhattan
 23 South, I would charge 200, because I had to
 24 travel and be at a different courthouse.
 25 That is pretty much how I did it.

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1 Mario H. Capogrosso
 2 Predominately it was 150 or a hundred. If it
 3 was done that day, and they walked in that
 4 day, I charged a hundred. But that is how I
 5 did it.
 6 Q. I think the most I saw for any of
 7 the cases on here was 250.
 8 What would be a \$250 case?
 9 A. That was Queens South. So I
 10 would have to travel down to Queens South. I
 11 couldn't be in the Brooklyn South Traffic
 12 Violations Bureau, so I had to reschedule to
 13 make sure I was there. And that is the fee
 14 we agreed on.
 15 Q. Okay. So why did you redact the
 16 items in the middle?
 17 A. It was client information. I
 18 didn't feel comfortable revealing it. Names,
 19 phone numbers, ID numbers, driver's license
 20 ID numbers, dates of births, phone numbers. I
 21 am not going to give you that information.
 22 It is not right.
 23 Q. Is there any legal authority for
 24 you to redact that?
 25 A. It is just client information.

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1 Mario H. Capogrosso
 2 It is privileged information. I am not going
 3 to give you my client's phone numbers. I am
 4 not going to do that. I don't think it's
 5 appropriate, or their name. It is not
 6 appropriate. Or their New York driver's
 7 license ID, I don't think it's appropriate.
 8 I don't think it is relevant and material.
 9 To me, it is privileged information.
 10 Q. Did you seek -- did you seek a
 11 protective order or confidentiality order?
 12 A. No, I did not.
 13 Q. All right. So I will show you,
 14 Mr. Capogrosso, in what you produced to us,
 15 the pages there is a gap between pages 201
 16 and 206. Are you aware of that? It goes
 17 straight from 201 down to 206. Why didn't
 18 you produce the pages in between?
 19 A. No, I produced it. I have to
 20 look.
 21 How did I send this to you?
 22 Maybe your -- maybe your -- I sent you this.
 23 Maybe your -- I walked this down to your
 24 office. I didn't scan it and send it to you.
 25 I walked this down to your office.

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1 Mario H. Capogrosso
 2 Maybe the person who scanned it
 3 didn't scan it in properly. I didn't leave
 4 out anything. None. Maybe somebody in your
 5 office that scanned it improperly.
 6 Q. Okay. So you are confident --
 7 A. Yes, I am. Absolutely. I left
 8 nothing out.
 9 Q. You are confident you produced
 10 everything, correct?
 11 A. Yes. And I will get you those
 12 missing pages, I will. I don't think I
 13 misnumbered this.
 14 Q. So you indicated that the lost
 15 revenue was \$122,715 for 15 months; is that
 16 correct?
 17 A. That was the money remaining on
 18 my docket, yes, that I couldn't finish.
 19 Q. And did you divide that by adding
 20 up this column paid?
 21 A. No, the total column, total.
 22 Q. So did that assume that everyone
 23 was going to pay you what they owed?
 24 A. Yes, the money that was due.
 25 Q. Does everyone always pay you what

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1 Mario H. Capogrosso
 2 they owe?
 3 A. Yeah, for the most part. My
 4 clients are very -- for the most part, yes.
 5 Yes.
 6 Q. But sometimes people don't?
 7 A. For the most part, my clients
 8 paid me. They liked me, and they paid me,
 9 and they respected what I did for them in a
 10 courtroom, they did. I rarely had a
 11 problem --
 12 Q. Wouldn't it be true that --
 13 wouldn't it be true to say that sometimes
 14 clients don't pay what they owe?
 15 A. For the most part, my client
 16 always paid. They paid.
 17 Q. But not always, correct?
 18 A. I don't recall when they didn't.
 19 I really don't.
 20 My clients paid me. They liked
 21 me, my clients. They respected what I did
 22 for them in a courtroom, and they paid me.
 23 Q. So you indicated that \$122,715
 24 figure was lost revenue.
 25 What were your expenses for your

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1 Mario H. Capogrosso
 2 practice?
 3 A. I had a -- I had a virtual office
 4 up in Hawthorne, Connecticut, where I
 5 received mail, where I can receive clients.
 6 You can use the conference room. I had my
 7 home office I used. I had an apartment in
 8 Brooklyn at the time. I had travel expenses.
 9 I had my home -- we have the home up here in
 10 New Rochelle. What else? Travel expenses.
 11 What else do you have? You have the bridges
 12 going back and forth, gas, the tolls. That
 13 is it, normal operating expenses.
 14 Laptop, desktop, copier, paper.
 15 You know, my dues, my association dues to
 16 practice law, my license dues, my CLE dues,
 17 all that stuff.
 18 Q. So why didn't you include your
 19 expenses in your calculation?
 20 A. I didn't think I needed to.
 21 My expenses are my expenses.
 22 That is the total money that I
 23 was owed.
 24 My expenses are my expenses.
 25 Q. But if you weren't practicing

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1 Mario H. Capogrosso
 2 law, didn't you not need to pay for a great
 3 deal of those expenses?
 4 A. What does that have to do with
 5 the money I could have generated? I don't
 6 understand. It is not relevant. Has nothing
 7 do with my expenses, with the money I could
 8 have been given. Nothing to do with it.
 9 Q. So it is your testimony that it
 10 wouldn't have cost you any money to make this
 11 money?
 12 A. It would have cost me money to
 13 make this money.
 14 Q. So why didn't you include your
 15 expenses in your calculations of your damage?
 16 A. Including my expenses, I didn't
 17 think it was relevant. That is the money I
 18 was owed. To me, it is not -- why expenses
 19 should be taken off of the total revenue to
 20 me, it was not relevant. That is the money I
 21 was owed.
 22 Q. Okay. And in terms of --
 23 A. Wait. Wait. Wait. Let me think
 24 about this question for a minute.
 25 Q. Sure.

29 (Pages 110 - 113)

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1 Mario H. Capogrosso
 2 A. Because I have to understand what
 3 you're saying here.
 4 Total money owed, you are saying
 5 that I should take off my expenses.
 6 Let me try to understand it.
 7 That is the money I was owed, that is it.
 8 That is the money was I owed and the money I
 9 lost.
 10 Q. Okay. And your expenses included
 11 the virtual office in Connecticut, home
 12 office in --
 13 A. No, no. Virtual office was
 14 Hawthorne, New York.
 15 Q. Apologies. The virtual office in
 16 Hawthorne, New York, the mail in Connecticut,
 17 home office, Brooklyn apartment, CLE, bar
 18 fees, travel, wear and tear on the car.
 19 Anything else?
 20 A. Yeah. There was no mail in
 21 Connecticut.
 22 Q. Didn't you say you had a place in
 23 Connecticut where you received mail?
 24 A. No, no, no, no. I received my
 25 mail -- at that point I had an apartment in

Page 115

1 Mario H. Capogrosso
 2 Brooklyn. We have a home up here in
 3 New Rochelle.
 4 No. I was licensed in
 5 Connecticut. I did have a couple of cases in
 6 Connecticut, only a couple which did not
 7 involve the TVB; but I do have an office in
 8 Connecticut.
 9 Q. So, Mr. Capogrosso, do you recall
 10 that we asked you for your tax returns from
 11 the relevant period?
 12 A. Yes.
 13 Q. And did you produce them?
 14 A. No.
 15 Q. Why not?
 16 A. Because I don't think they are
 17 relevant material. I do not.
 18 Q. Why don't you think so?
 19 A. Because I am showing you what I
 20 could have made right there. I showed you
 21 what I could have made. I have given you all
 22 the money that I generated.
 23 My tax returns are my tax
 24 returns. I don't think they are relevant
 25 material. I have shown you the money that I

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1 Mario H. Capogrosso
 2 collected. I have shown you that.
 3 Now, did I earn all that money?
 4 No. I showed you the money that I could have
 5 collected.
 6 Q. Mr. Capogrosso, how much income
 7 did you claim on your taxes in 2013?
 8 A. I don't recall.
 9 Q. Do you recall --
 10 A. Was it everything -- all the
 11 revenue showed here? No. Not all the
 12 revenue is shown here, because these tickets
 13 were not necessarily completed on the due
 14 date. And I didn't earn this money until I
 15 completed the ticket.
 16 For example, a ticket that was
 17 due date on May 11, 2015 might not get done,
 18 completed for two years from that date. Two
 19 years. Cases got rescheduled constantly.
 20 Q. So the actual income that you
 21 would report on your taxes would be lower: is
 22 that correct?
 23 A. Yes, lower. Because that was the
 24 money, the money when I completed the cases,
 25 when I actually completed it. That, to me,

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1 Mario H. Capogrosso
 2 then I finally earned that money. Until I
 3 completed the case, I didn't earn it.
 4 Q. Mr. Capogrosso, do you have an
 5 estimate of how much money you claimed as
 6 income on your taxes in 2013, ballpark
 7 figure?
 8 A. What I am showing here is I would
 9 bring in about 8,000 a month. Bring in,
 10 which is what this works out to. But you
 11 didn't complete \$8,000 worth of work in a
 12 month, you didn't complete it. That is what
 13 you brought in. You might have finished, you
 14 know, maybe 11, 1200 a week, maybe, where you
 15 actually completed 11, 1200 dollars worth of
 16 work a week.
 17 You know, that is what I would
 18 have completed.
 19 Probably what you brought in was
 20 more.
 21 Q. So I apologize if I don't quite
 22 understand.
 23 You would have completed about 11
 24 or 1200 dollars worth of work per week, but
 25 you would have brought in a little more.

30 (Pages 114 - 117)

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1 Mario H. Capogrosso
 2 Can you explain that?
 3 A. Bring in clients, you bring in
 4 revenue.
 5 Like I said, a guy would hire me.
 6 give me a ticket. You might collect \$2,000
 7 worth of tickets in a week or \$8,000 in a
 8 month.
 9 But the cases that were actually
 10 finished in that month or in that week would
 11 be about 11 to 1200 dollars, around that
 12 figure a week.
 13 Q. And it is not income for you
 14 until the case is completed; is that correct?
 15 A. Absolutely. Absolutely. I have
 16 not earned that money until I argue that
 17 case. I have not earned that money until I
 18 personally appeared and argue that case. I
 19 have not earned that money.
 20 Q. Understood.
 21 So do you have an estimate of how
 22 much income you would claim on your taxes in
 23 2013, 2014?
 24 A. I don't recall. Probably would
 25 have been 11 to 1200 dollars a week. That

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1 Mario H. Capogrosso
 2 was work that I actually completed, actually
 3 completed for the week.
 4 Q. And do you recall approximately
 5 how much income you claimed on your taxes in
 6 2015?
 7 A. No.
 8 Q. What about in 2016, the year
 9 after the first full year when you were no
 10 longer work at the TVB? Do you recall how
 11 much money you claimed on your taxes?
 12 A. No.
 13 Q. And 2017 and 2018, do you also
 14 not recall?
 15 A. Well, in '18 I was working for
 16 Jiang. Like I said, he was paying me 85,000
 17 year, 85,000.
 18 But I was a 1099, so that is what
 19 it would have been. The Law Firm of Yuan
 20 Jiang, I know he was paying me 85 a year.
 21 Q. And so the same for 2019?
 22 A. Yeah. But I started with Jiang
 23 in March of 2018, and 2019 it would have been
 24 a full. But this part of 2020, I stopped
 25 working for him on March 17, 2020.

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1 Mario H. Capogrosso
 2 Q. Well, I am sure as heck not ready
 3 to pay my 2020 taxes, so I won't ask you for
 4 your estimates for this year, because I
 5 certainly have no idea.
 6 So let's go back to Exhibit 1.
 7 A. Yeah.
 8 Q. Switching my screen back to that.
 9 MR. THOMPSON: Can everyone see
 10 Exhibit 1?
 11 THE WITNESS: Yes.
 12 MR. THOMPSON: And, Madam Court
 13 Reporter, before we are done with
 14 Exhibit 2, had I asked you to mark that
 15 yet?
 16 THE COURT REPORTER: I can check
 17 for you. Off the top of my head, I
 18 don't remember, Counsel.
 19 MR. THOMPSON: There is no need
 20 to check. Let me just ask you now to
 21 please have that marked as Exhibit 2.
 22 (Whereupon, a document was deemed
 23 marked as Exhibit 2 for identification,
 24 as of this date.)
 25 THE COURT REPORTER: Before we

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1 Mario H. Capogrosso
 2 continue, can we take a break?
 3 MR. THOMPSON: Sure. Actually
 4 yeah, let's take a quick five-minute
 5 break.
 6 Is that fine with you,
 7 Mr. Capogrosso?
 8 THE WITNESS: Yes. 11:45?
 9 MR. THOMPSON: 11:45.
 10 THE VIDEOGRAPHER: The time is
 11 11:40. We are off the record.
 12 (Whereupon, a short recess was
 13 taken at 11:40).
 14 (Time noted: 11:40 a.m.)
 15

16 MARIO H. CAPOGROSSO
 17
 18 Subscribed and sworn to before me this
 19 _____ day of _____, 2020.
 20 _____, Notary
 21 Public.
 22
 23
 24
 25

31 (Pages 118 - 121)

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3	Examination by	5	20
4	Mr. Thompson		
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1
2 CERTIFICATE
3
4 I, MARIA ACOCELLA, a Notary Public within
5 and for the State of New York, do hereby
6 certify:
7 That the witness whose deposition is
8 hereinbefore set forth, was duly sworn by me
9 and that the within transcript is a true
10 record of the testimony given by such
11 witness.
12 I further certify that I am not related to
13 any of the parties to this action by blood
14 or marriage and that I am in no way
15 interested in the outcome of this matter.
16 IN WITNESS WHEREOF, I have hereunto set my
17 hand this 5th day of January, 2021.
18
19
20
21 
22 MARIA ACOCELLA
23
24
25

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1 ERRATA SHEET
2 VERITEXT/NEW YORK REPORTING, LLC
3 CASE NAME: Capogrosso v. Gelbstein, Et Al
4 DATE OF DEPOSITION: 12/18/2020
5 WITNESSES' NAME: Mario Capogrosso, a m
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22 Mario Capogrosso, a m
23 SUBSCRIBED AND SWORN TO BEFORE ME
24 THIS ____ DAY OF _____, 20____
25 (NOTARY PUBLIC) MY COMMISSION EXPIRES

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CASE NO. CV-18-2710

-----X

MARIO H. CAPOGROSSO,

Plaintiff,

-against-

ALAN GELBSTEIN, et al.,

Defendants.

-----x

December 18, 2020

11:48 a.m.

VIDEO EXAMINATION BEFORE TRIAL of
MARIO H. CAPOGROSSO, the Plaintiff
herein, taken by the Defendants, pursuant
to Notice, before Lisa H. MacDonald, RPR,
and Notary Public of the State of New
York.

VOLUME II

Page 126

1
2 APPEARANCES.
3
4 MARIO H. CAPOGROSSO, ESQ.
5 21 Sheldrake Place
6 New Rochelle, New York 10804
7 Plaintiff Pro Se
8
9 STATE OF NEW YORK, OFFICE OF THE ATTORNEY
10 GENERAL, LETITIA JAMES
11 28 Liberty Street
12 New York, New York 10005
13 Attorneys for Defendants
14 BY: JAMES THOMPSON, ASSISTANT
15 ATTORNEY GENERAL.
16
17
18
19
20
21
22
23
24
25 ALSO PRESENT:
Howard Brodsky, Videographer

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1 M.H. Capogrosso
2 MR. VIDEOGRAPHER: The time
3 is 11:48. We are on the record.
4 EXAMINATION BY
5 MR. THOMPSON:
6 Q So thank you,
7 Mr. Capogrosso. You can see we are back
8 looking at Exhibit 1; correct?
9 A Yes.
10 Q And we are at page 4 of the
11 breakdown of your damages. You see item
12 number 4 which talks about compensatory
13 damages to the loss and resultant damages
14 to your legal reputation in the Brooklyn
15 community. You see that, correct,
16 Mr. Capogrosso?
17 A I do, yeah.
18 Q And you estimated damages as
19 5 times the value of 15 months of your
20 revenue; is that correct?
21 A Yes.
22 Q So how did you arrive at
23 that figure?
24 A Well, your reputation as an
25 attorney is paramount. If you take money

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1 M.H. Capogrosso
2 on a case and you don't show up on that
3 case, your reputation has been -- has
4 been damaged. It's been taken away.
5 Nobody is going to trust you anymore.
6 Nobody is going to hire you on another
7 case especially in Brooklyn if you take
8 their money and you don't show up. The
9 worst thing you can do to a Brooklyn
10 motorist or a Brooklyn client is take
11 their money and not show up.
12 I've dealt with the Brooklyn
13 community for 10 years. I've had threats
14 against my safety from the Brooklyn
15 community when I don't show up for a case
16 and I took their money. It's the worst
17 thing you can do is not show up on a case
18 and you take their money.
19 These are all cab drivers
20 that -- a lot of these cases. They're
21 all business -- they're all working men
22 for a living and you can't take their
23 money and not show up.
24 Now my reputation for
25 showing up in a courthouse in the

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1 M.H. Capogrosso
2 Brooklyn community has been -- has been
3 just -- has been ruined. I can't tell
4 you how it's been ruined. Who's going to
5 hire me on a case again? That's how I
6 got that number.
7 Q So but when you -- I
8 understand you feel that your reputation
9 has been harmed, but why did you
10 determine that the value of it was 5
11 times \$122,715?
12 A The exact number -- well,
13 122 was the money I could have brought
14 in, 122 and five years is the amount of
15 money since I left to the time I brought
16 the Complaint. I was removed on May 11,
17 2015 and to currently right now it's been
18 five years.
19 Q So --
20 A Five and-a-half years. I
21 could have put it at 5.5, but I put it at
22 five.
23 Q So you chose that number
24 because you feel that it reflects the
25 amount of money that you could have

2 (Pages 126 - 129)

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1 M.H. Capogrosso
 2 brought in over those five years:
 3 correct?
 4 A Over those five years, plus
 5 the damage to my reputation over those
 6 five years.
 7 Q Yeah. The question I'm
 8 trying to get at, Mr. Capogrosso, is why
 9 do you put the value of the damage of
 10 your reputation as the same of the value
 11 of five years of your expense -- of your
 12 income or your billings rather?
 13 A Well, that was the five
 14 years I was not able to -- the damage to
 15 my reputation for those five years I was
 16 not present and being able to do this
 17 type of work, not being able to talk to
 18 my clients, not being able to represent
 19 my clients for those five years.
 20 Q I guess my question is
 21 what's the difference between your
 22 reputational claims and the future
 23 prospective revenue that you could be --
 24 that you also claim?
 25 A Revenue is one thing.

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1 M.H. Capogrosso
 2 Damage to -- I might not be able to get
 3 that revenue ever again counsel. I might
 4 not ever be able to generate any type of
 5 revenue in this community or in any TVB
 6 in New York. I might not be able to
 7 generate that revenue again.
 8 Now that is for a jury to
 9 decide as to what the damage to my
 10 reputation is, a jury to decide how these
 11 defendants should be punished. I have
 12 given you figures. I have told you the
 13 total amount of revenue I brought in, the
 14 amount of months, what it breaks down per
 15 month. I've given you my figures. A
 16 jury needs to make those determinations,
 17 but that's how I made it, the five years
 18 I've been out, the value to my reputation
 19 that I don't think I'll be able to get
 20 many more clients in the Brooklyn
 21 community because of this and the money
 22 which I lost because I was not able to
 23 work for the Brooklyn community during
 24 this period of time.
 25 Q So let me ask you -- let me

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1 M.H. Capogrosso
 2 ask the question a different way. If
 3 your reputation had not been harmed at
 4 all and you had continued practicing in
 5 the TVB, would you have -- you would have
 6 continued making money at that \$8,181 per
 7 month or you would have continued --
 8 sorry. Let me withdraw the question and
 9 phrase it a different way.
 10 If you had not had your
 11 reputation damaged at all, isn't it the
 12 case that you would have just continued
 13 making the same amount of money you were
 14 making before you were expelled?
 15 A Well, I don't know that. I
 16 can't assume that. I can't assume it. I
 17 may have made more. I may have made
 18 less. I don't know. I probably would
 19 have made more because people liked me.
 20 My clients liked me. My clients really
 21 liked me.
 22 I probably would have
 23 brought even more money in, which is the
 24 reason some of these attorneys down there
 25 wanted me out. It's a very competitive

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1 M.H. Capogrosso
 2 business this ticket broker, this ticket
 3 business. We are all vying for the
 4 same -- the same ticket. There's only so
 5 many tickets written. It's a very
 6 competitive business with the attorneys.
 7 So my reputation was growing
 8 and I probably would have made more.
 9 Q So let me ask you, do you
 10 have any basis to believe or any evidence
 11 for the proposition that you would have
 12 made more money in the future?
 13 A My clients liked me. My
 14 reputation was good at that point. I
 15 reestablished my reputation. I was
 16 getting -- I was getting, you know,
 17 clients, you know. I don't know. People
 18 liked me. My clients liked me.
 19 Q And how do you know that
 20 your reputation was damaged?
 21 A Nobody is going to hire me
 22 anymore when you -- I had to call 850
 23 clients, I gave you my calendar, 850
 24 clients and tell them I can't show up.
 25 You took my money. Counsel, why aren't

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1 M.H. Capogrosso
 2 you here? I had to explain it to 850
 3 clients.
 4 I can't tell you why. I
 5 have no idea. I was given nothing in
 6 writing. I was told by Danielle Calvo to
 7 leave and told by Ida Traschen I'm not
 8 allowed. I was given nothing in writing.
 9 I have nothing to tell them. I was given
 10 nothing by your office. I have nothing
 11 to tell my clients. I don't know why. I
 12 have no reason. I was told to leave.
 13 Q All right.
 14 A So my reputation -- so my
 15 reputation has been damaged.
 16 Q But you were still able to
 17 get jobs in the legal community. You
 18 said you represented clients on dozens of
 19 cases, personal injury cases, criminal
 20 cases and other cases; isn't that
 21 correct?
 22 A It took me a while to get a
 23 job. They're not easy to find.
 24 especially as you get older. They're not
 25 easy to find. It took me a year to find

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1 M.H. Capogrosso
 2 the first job and then Jiang was nice.
 3 then Jiang's office, but it's not easy.
 4 it is not and it's not --
 5 Q Did you --
 6 A I liked -- I liked doing
 7 what I did.
 8 Q But your reputation --
 9 A People my age are retiring.
 10 retiring at this age. I like to work and
 11 it's not easy getting a job at this age.
 12 Q Your reputation didn't
 13 prevent you from getting these jobs
 14 though, the one in the Perla firm and
 15 then the one at the Jiang firm, is that
 16 correct?
 17 A I had to leave this type
 18 of -- well, they didn't know about this.
 19 my reputation. They didn't know about
 20 this lawsuit or that I didn't show up on
 21 cases, I wasn't allowed to show up.
 22 Neither one of them asked me about this.
 23 I would have told them if they did, but
 24 they didn't ask me.
 25 But in terms of the clients.

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1 M.H. Capogrosso
 2 yes, it was ruined. In terms of the
 3 employers, no, it was not ruined because
 4 I was never asked.
 5 Q So can you specifically
 6 identify any economic harm that you've
 7 caused -- that you've suffered based on
 8 the damage to your reputation?
 9 A If I was to go back to
 10 practice this type of law, I'm not going
 11 to get as many cases as I did before. My
 12 name and reputation as somebody who shows
 13 up and argues a case and represents a
 14 client zealously, which is an oath I
 15 took, is not the same and it's not by my
 16 fault. It's not by my fault. I took an
 17 oath to zealously advocate and I could
 18 not zealously advocate because I was
 19 removed for no reason. No reasons were
 20 given to me. I got a 10 second phone
 21 call from Ida Traschen.
 22 Q Okay. But so the question
 23 was can you specifically identify any
 24 economic harm that has been caused by the
 25 damage to your reputation?

Page 137

1 M.H. Capogrosso
 2 A I'm not able to generate the
 3 income that I was generating at the
 4 Brooklyn TVB and I showed you the revenue
 5 I was bringing in.
 6 Q But is that because you're
 7 not practicing at the Brooklyn TVB or is
 8 that because of the damage to your
 9 reputation?
 10 A Because I'm not working at
 11 the Brooklyn TVB and because of the
 12 damage to my reputation. No one is ever
 13 going to give me a case again down there.
 14 nobody.
 15 Q Because you --
 16 A Nobody is going to give me a
 17 case.
 18 Q Because you can't practice
 19 there?
 20 A I can't practice there and
 21 if I could they still wouldn't hire me.
 22 Q So it's more a contingent
 23 thing in the event that you were to be
 24 reinstated?
 25 A Listen, my -- my reputation

4 (Pages 134 - 137)

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1 M.H. Capogrosso
 2 as an attorney has been damaged. I have
 3 to explain this removal from the Brooklyn
 4 TVB in 50 states in the United States if
 5 I decide to go practice in any one of
 6 these states. 50. In federal court, I
 7 have to explain this. Immigration court.
 8 I have to explain this. If I decide to
 9 go down to the US PTO patent court, I
 10 have to explain this.
 11 That's the damage to my name
 12 and reputation. I have to explain this
 13 every place I go down the road and every
 14 court I seek admittance to I have to
 15 explain it. You put a number on it. I'm
 16 low. This number should be much higher.
 17 You have to explain this when you try to
 18 seek admission to another state court
 19 someplace or to your federal court, the
 20 Eastern District court, try to.
 21 I was removed without an
 22 explanation as to what happened. A 10
 23 second phone call from Ida Traschen, from
 24 somebody, a clerk who didn't even look at
 25 the videotape. That's the damage --

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1 M.H. Capogrosso
 2 Q So how would you --
 3 A -- to my reputation.
 4 Q How would you describe your
 5 reputation while you were practicing at
 6 the TVB?
 7 A My clients loved me. I sent
 8 you my reviews. They loved me. Police
 9 officers didn't like me. I argued a very
 10 tough case. The other attorneys didn't
 11 like me. I was competition, I know that.
 12 But my clients -- the clerks didn't love
 13 me, I know that, too, because I wasn't
 14 giving them gifts and money and buying
 15 them breakfast. I understand that.
 16 But my clients loved me. I
 17 argued every case.
 18 Q Did the A.I.s like you?
 19 A I don't know. I didn't
 20 associate with judges. You're not
 21 allowed to. There's a rule about that.
 22 There's a rule you're not supposed to
 23 talk to judges outside a courtroom.
 24 Whether they liked me or not, I really
 25 didn't care. I know I argued a good

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1 M.H. Capogrosso
 2 case. I didn't talk to the judges
 3 outside the courtroom. You're not
 4 allowed to.
 5 Q So you don't know if you
 6 were liked and respected by the judges --
 7 A I didn't --
 8 Q -- is that correct?
 9 A I cared what my clients
 10 thought. I cared what my clients
 11 thought. I argued a tough case. I
 12 wasn't trying to please a judge. I was
 13 trying to win my client's case. I was
 14 not trying to please the judge.
 15 Q I understand that.
 16 Mr. Capogrosso, but the question was a
 17 little narrower. Do you know if the
 18 judges liked and respected you?
 19 A No, I don't. I don't know.
 20 I really don't care.
 21 Q Okay.
 22 A I really don't care. I did
 23 what I had to do for my clients. Whether
 24 a judge liked me or not --
 25 Q Okay?

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1 M.H. Capogrosso
 2 A -- I wasn't trying to seek
 3 their favor.
 4 Q And the clerks, did the
 5 clerks like and respect you?
 6 A Clerks, I don't think they
 7 liked me, no. I told you I wasn't giving
 8 them any money. I wasn't giving them --
 9 Q Why not?
 10 A -- a piece of the action.
 11 No. I don't think the clerks
 12 liked me. No. I think maybe one clerk
 13 liked me. I treated them all nicely and
 14 respectfully. I might have been loud. I
 15 have a loud voice when I talk. I never
 16 verbally abused anyone. Never called --
 17 never made a racial threat, verbally
 18 abused anyone.
 19 I would argue zealously for
 20 my clients, I wanted the best for them.
 21 but I never verbally abused anyone.
 22 Q And the other attorneys, did
 23 they like you?
 24 A The other attorneys? We
 25 were in a competitive business, no. No.

5 (Pages 138 - 141)

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1 M.H. Capogrosso
 2 they didn't like me. Yaakov Brody told
 3 me to go fuck myself, I'm a Jew hater
 4 anti-Semite because I was making too much
 5 money in his presence. He had no other
 6 reason for saying it.
 7 When you go through all the
 8 complaints written against me, there's
 9 not one from a client or a motorist that
 10 I made a racial epi -- a racial remark or
 11 an anti-Semitic remark, not one from a
 12 client. There's a couple complaints
 13 about a fee, that I didn't show up or
 14 something about a fee, but not one that I
 15 made a racial remark or an inappropriate
 16 remark to a client or I didn't show up on
 17 a case.
 18 Now Yaakov Brody didn't like
 19 me and I'm sure --
 20 Q So is it your contention --
 21 A Yes.
 22 Q I apologize. I didn't mean
 23 to cut you off, Mr. Capogrosso.
 24 A Go ahead. I'm listening.
 25 Q So is it your contention

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1 M.H. Capogrosso
 2 that the complaints about you are made
 3 up?
 4 A There's no substance. No,
 5 they're not made up. They're real. I
 6 saw them. I was given no opportunity to
 7 respond to them. The first time I saw
 8 these complaints was -- well, I was given
 9 no opportunity to respond. I might have
 10 seen -- I know I saw them in response to
 11 the --
 12 Q Let me rephrase the
 13 question.
 14 A I saw the complaints in
 15 response to the motion to dismiss, the
 16 first time I saw them.
 17 Q Let me rephrase the
 18 question. We are not -- Mr. Capogrosso,
 19 if I may, obviously there's not a
 20 question as to whether the complaints are
 21 real or not, but is it your contention
 22 that the allegations in the complaints
 23 are untruthful?
 24 A Yes, absolutely. I was
 25 given no --

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1 M.H. Capogrosso
 2 Q How --
 3 A I'll go through them one by
 4 one. Put them up, let's go through them.
 5 I'll respond to every complaint written
 6 against me. I will respond to every
 7 complaint written against me. I will
 8 respond to. I'm glad I have the
 9 opportunity. I --
 10 Q So that is where we are
 11 going to next. Hold on one quick second
 12 while I bring up the first of them.
 13 Mr. Capogrosso, can you see
 14 the exhibit that I've just brought up?
 15 A Yeah. April 1. Yes, not
 16 the whole part of it. I can only see the
 17 top portion of it, so I'd like to read --
 18 MR. THOMPSON: Madam Court
 19 Reporter, can you see it?
 20 MR. VIDEOGRAPHER: This is
 21 the videographer. I see it, Counsel.
 22 A I can only see a portion of
 23 it.
 24 Q Yeah. There's more down
 25 here.

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1 M.H. Capogrosso
 2 MR. THOMPSON: I just wanted
 3 to check with Ms. MacDonald because I
 4 know you just swapped in. Are you
 5 seeing the exhibits okay?
 6 MS. REPORTER: Sorry. I was
 7 on mute. Yes.
 8 MR. THOMPSON: Okay. Good.
 9 Q So, Mr. Capogrosso, do you
 10 recognize this document?
 11 A Well, I'd like to see the
 12 bottom of it. I do recognize it.
 13 absolutely.
 14 Q Sure.
 15 A All right. Go ahead. Yes.
 16 I know exactly what this is.
 17 Q And this is, just for the
 18 record, this is a document that you
 19 produced at number P-80; is that correct?
 20 A I've produced it. I think
 21 you produced it. You had this. I've
 22 also given it back to you. Yes, it's
 23 been produced.
 24 Q And you said you recognize
 25 it. What is this document?

6 (Pages 142 - 145)

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1 M.H. Capogrosso
 2 A Well, this is the date with
 3 Tanya Rubinowitz. This is the lawyer,
 4 the woman calling herself a lawyer in
 5 Judge Gelbstein's courtroom and this is
 6 written by a clerk, I'm not sure who that
 7 is, Perez, one of the clerks there and it
 8 happened on 2009.
 9 This is after I called the
 10 District Attorney and I said we have a
 11 woman down here calling herself a lawyer
 12 on a repeated basis and people asked me
 13 where's Tanya, the lawyer. I said she's
 14 not a lawyer.
 15 And she approaches me that
 16 day and says did you call -- did you call
 17 the District Attorney? I said yes, I
 18 did, I admitted it to her and then she
 19 starts yelling and berating me and I
 20 tried walking away from her.
 21 Now, this clerk -- this
 22 happened near the attorney's room. I
 23 know exactly where it happened. Between
 24 the attorney's room and the clerks, it's
 25 at least 60 feet.

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1 M.H. Capogrosso
 2 But that's what happened.
 3 She came at me yelling and screaming why
 4 did you call the District Attorney. I
 5 admitted that I did. I could not have
 6 admitted to it. I could have said I
 7 didn't call her, right. I could have
 8 just walked away, but I didn't. I
 9 admitted the truth and I tried walking
 10 away. That's what happened.
 11 I wasn't charged. I wasn't
 12 arrested. I didn't do anything wrong but
 13 tried to get away from the situation and
 14 telling the truth. I told her what
 15 happened and what I did.
 16 Q So in this statement from
 17 Mr. Perez he writes that he saw -- "He
 18 observed and heard Mr. Capogrosso
 19 screaming and yelling profanities and
 20 obscenities at Ms. Rabinovich, Tanya."
 21 Is that true?
 22 A No, it's not. There's not
 23 one --
 24 Q You did not?
 25 A No. I did not. I was

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1 M.H. Capogrosso
 2 telling her to get away from me. I
 3 didn't yell any profanity because you
 4 know what, they're not listed there. And
 5 what obscenity was used? The clerk
 6 doesn't put it down.
 7 I was telling her to get
 8 away from me, but I yelled no profanity
 9 and no obscenity. You can't make an
 10 allegation that I used a profanity or
 11 obscenity if you don't tell me what it is
 12 and I used none. I never talked to a
 13 woman like that, never. I treat women
 14 very respectful.
 15 I was loud, that I agree I
 16 was loud, but I did not use a profanity
 17 or obscenity and none is listed. Tell me
 18 which one I used.
 19 Q Mr. Perez also writes that
 20 "Mr. Capogrosso was sitting down. I
 21 observed him getting up" -- "get up from
 22 his seat and approach Ms. Rabinovich
 23 walking fast and hard toward her when he
 24 bumped real hard into her as he tried to
 25 pass by her, which was very unnecessary

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1 M.H. Capogrosso
 2 given he had plenty of room to walk
 3 around her."
 4 Is that true?
 5 A I did get up. She's right
 6 in my face, right about three feet away
 7 from me, right on top of me. I did get
 8 up and walk away. I don't recall bumping
 9 into her, no. I would never hit a woman,
 10 never, never.
 11 Q Would you bump --
 12 A I don't -- she was like
 13 right on top of me, maybe three feet
 14 away, pointing her finger at me and
 15 yelling at me in Russian and some other
 16 nonsense, yelling and screaming at me.
 17 Did I bump into her, no. I
 18 would never hit a woman. But I did tell
 19 her to get away from me and I did admit
 20 to what I did and she was upset, but she
 21 didn't --
 22 Q Did you --
 23 A She was upset.
 24 Q Did you make contact with
 25 her in any way?

7 (Pages 146 - 149)

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1 M.H. Capogrosso
 2 A No, not that I recall, no.
 3 She would have filed a police report
 4 against me that I hit her and none was
 5 filed. I do not recall hitting her,
 6 absolutely not.
 7 Q So I'll tell you.
 8 Mr. Capogrosso, we are going to look at a
 9 number of reports and this has some
 10 similarities to some other ones in there
 11 will be a number of reports that say that
 12 you were yelling and shouting obscenities
 13 and there will be a number of reports
 14 saying that you bump into people and then
 15 indicate that it's not on purpose.
 16 A Well --
 17 Q Is there any truth to that?
 18 A Well, you can write and say
 19 whatever you want. You can write and say
 20 whatever you want. You know, I was never
 21 arrested on anything. I didn't yell any
 22 obscenity. You have to give me the
 23 obscenity I used. You can make any
 24 allegation you want at me. You have to
 25 prove it. You have to have some type of

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1 M.H. Capogrosso
 2 corroboration. Is anybody corroborating
 3 this, Ms. Perez, that they saw me?
 4 Q Well --
 5 A Was there a police report
 6 written against me?
 7 Q Well, this is not a, you
 8 know, this is not a statement in a court
 9 of law. This is just a complaint saying
 10 what happened; isn't it?
 11 A Well, where's my affidavit
 12 in response? Where's Judge Gelbstein
 13 giving me a chance to respond to this so
 14 we get right to the heart of the matter
 15 in 2009?
 16 Q So this person L. Perez,
 17 Jr., do you know who that is?
 18 A No.
 19 Q It says MVR 1. Do you know
 20 what an MVR 1 is?
 21 A No.
 22 Q I would suspect that it
 23 means Motor Vehicle Representative 1,
 24 which is the pay grade for the people who
 25 work as clerks behind the counter.

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1 M.H. Capogrosso
 2 So let's just ask here,
 3 Mr. Perez who wrote this statement, is he
 4 lying?
 5 A I did not bump into anybody.
 6 I did not hit anybody. I did walk away
 7 from this woman who approached me.
 8 approached me and asked me if I called
 9 the DA on her and I said yes, I did, but
 10 that story doesn't get --
 11 Q So --
 12 A -- that story doesn't get
 13 told.
 14 Q So Mr. Capogrosso that
 15 wasn't quite the question. The question
 16 is is Mr. Perez lying?
 17 A That I used an obscenity.
 18 absolutely, absolutely.
 19 Q Why would he lie?
 20 A They like Tanya. I told you
 21 this already. Tanya was doing business
 22 with the clerks. I saw Tanya at the
 23 clerk's counter rescheduling cases as if
 24 she was a lawyer. Maybe she was entering
 25 guilty pleas at the counter as if she was

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1 M.H. Capogrosso
 2 a lawyer. She had a case load.
 3 She had an office right
 4 outside the DMV and they were doing work
 5 for her for some reason, which I don't
 6 know, but, you know, it wasn't for free.
 7 so they liked Tanya.
 8 Q And so you think Perez was
 9 lying because Ms. Rabinovich bribed the
 10 clerks --
 11 A That's not --
 12 Q -- is that correct?
 13 A I don't know. I don't know.
 14 I know I didn't bump into anybody. I
 15 know she was right on top of me. I know
 16 I don't use obscenities with women.
 17 absolutely not. There's not one --
 18 Q Okay.
 19 A -- from a motorist. If you
 20 go through all the complaints against me,
 21 they're all by clerks. Not one motorist
 22 or client has made a complaint against me
 23 that I used an obscenity. You go through
 24 all my complaints.
 25 Q Well, we'll see some --

8 (Pages 150 - 153)

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1 M.H. Capogrosso
 2 A You go through all my
 3 complaints.
 4 Q Well, we'll see some of
 5 those as we go forward. I'm going to
 6 bring up another document here.
 7 MR. THOMPSON: Oh, actually
 8 before I do. Madam Court Reporter,
 9 Ms. MacDonald, can I ask you to
 10 please mark that as Exhibit 3?
 11 Ms. MacDonald?
 12 MS. REPORTER: Sure. I
 13 usually don't like to speak while
 14 you're videotaping so I've just been
 15 nodding, but, yes, I'm noting in the
 16 index that it will be marked.
 17 MR. THOMPSON: Okay. Good.
 18 MS. REPORTER: Are you
 19 e-mailing -- did you e-mail all of
 20 these exhibits to the other reporter?
 21 MR. THOMPSON: Well, we
 22 e-mailed all of them to Veritext
 23 yesterday and we got a receipt, a
 24 confirmation e-mail and I know that
 25 the other reporter had them.

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1 M.H. Capogrosso
 2 MS. REPORTER: Okay.
 3 (The above-referred-to
 4 statement was marked as Exhibit 3 for
 5 identification as of this date.)
 6 Q Mr. Capogrosso, I'm going to
 7 bring up another exhibit --
 8 A Yes.
 9 Q -- and share my screen here.
 10 Mr. Capogrosso, do you see
 11 the exhibit?
 12 A Yes, yes. I remember that
 13 one. April, yes.
 14 Q And you see this one was
 15 produced by you and marked P-82: correct?
 16 A Yes.
 17 Q And so what is this
 18 document?
 19 A Well, this is the same
 20 incident and look what Roy says. Look
 21 what Roy says. He was seated on the
 22 bench. He stated get away from me, which
 23 is what I'm telling Tanya. Then he rose
 24 up and told Tanya to get away.
 25 There's no indication I

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1 M.H. Capogrosso
 2 bumped into her because I didn't bump
 3 into her. That's Roy's version of the
 4 same story. I'm telling the woman to get
 5 away from me.
 6 Q So this is a complaint
 7 written by Roy Tucci; correct?
 8 A Yeah, Roy I know. He's one
 9 of the clerks. There's no indication --
 10 Q Does --
 11 A Wait, you've got to let me
 12 finish.
 13 Q Sure.
 14 A There's no indication I
 15 verbally abused or I said any
 16 obscenities. Now they both observed the
 17 same incident. What Roy states is I told
 18 Tanya to get away from me, which I did.
 19 MR. THOMPSON: So -- well,
 20 first of all, Madam, Ms. MacDonald,
 21 can I ask you to please mark this as
 22 Exhibit 4?
 23 (The above-referred-to
 24 statement was marked as Exhibit 4 for
 25 identification as of this date.)

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1 M.H. Capogrosso
 2 Q And, Mr. Capogrosso,
 3 Mr. Tucci does say that he heard a loud
 4 voice and that he saw you.
 5 A Well, I do speak loudly,
 6 yes.
 7 Q He then writes "He then rose
 8 and told Tanya the interpreter to get
 9 away. Mr. Capogrosso moved towards Tanya
 10 and they seemed to bump."
 11 A I didn't --
 12 Q "The noise continued" --
 13 A Go ahead, finish.
 14 Q So this is Mr. Tucci
 15 corroborating that you bumped into
 16 Ms. Rabinovich; isn't that correct?
 17 A She bumped into me. I'm
 18 trying to get away from her. She
 19 approaches me. She's right on top of me.
 20 I'm telling her to get away. She's
 21 yelling and screaming in Russian at me
 22 pointing her finger at me and I'm trying
 23 to get away from her.
 24 He doesn't indicate I bumped
 25 into her. He said they seemed to bump.

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1 M.H. Capogrosso
 2 Q Well, he said that you moved
 3 toward Tanya. You'll see I'm
 4 highlighting that language here. He says
 5 that you moved toward her.
 6 A She's right in front of me.
 7 I'm trying to get away from this woman
 8 who's yelling and screaming at me at the
 9 top of her lungs.
 10 Now, did anybody report that
 11 she's yelling at me, no. "They seem to
 12 bump." She's three feet away from me.
 13 I'm trying to get away from her. That's
 14 what happened.
 15 Q Mr. Tucci says you're moving
 16 towards her.
 17 A She was in front of me.
 18 Where do you want me to go? How do I get
 19 away from the woman?
 20 Q So is Mr. Tucci telling the
 21 truth here?
 22 A I tried walking away from
 23 this woman.
 24 Q I understand, but that's not
 25 the question. The question is is

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1 M.H. Capogrosso
 2 Mr. Tucci telling the truth here?
 3 A I don't recall touching this
 4 woman at any point, at any point.
 5 Q I understand that,
 6 Mr. Capogrosso, but the question is
 7 Mr. Tucci lying in this statement?
 8 A I don't know if he's lying
 9 or not. Maybe that's what he thought he
 10 saw. I don't remember hitting this or
 11 touching this woman.
 12 Q Is it possible that you did?
 13 A I don't recall. I've never
 14 hit or touched a woman like this in my
 15 life, never. Bumping into somebody --
 16 you're three feet away from me. Why are
 17 you in my face? Why are you yelling and
 18 screaming at me? How do I get away from
 19 you at this point in time?
 20 Q Is it possible you bumped
 21 into her on purpose?
 22 A Absolutely not. I would
 23 never hit a woman in my life ever.
 24 Q Mr. Tucci writes that "The
 25 noise continued until our supervisor

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1 M.H. Capogrosso
 2 Danielle Calvo intervened." Do you
 3 remember what happened?
 4 A She's yelling and screaming
 5 at me in Russian, in Russian after I
 6 admitted to her that I called the
 7 District Attorney. She's yelling and
 8 screaming in Russian at me. I don't know
 9 what she was screaming.
 10 Q So --
 11 A And I like Russian women.
 12 don't get me wrong, but I don't like a
 13 Russian woman calling herself a lawyer
 14 who's not. I didn't like that,
 15 absolutely not.
 16 Q Do you remember if --
 17 A I did not bump into her.
 18 Q So do you remember if your
 19 bodies made contact at all?
 20 A I've answered this. No, I
 21 do not.
 22 Q Okay. No, you don't
 23 remember or no, it didn't happen?
 24 A I would never -- I don't
 25 recall bumping into this woman. No, I do

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1 M.H. Capogrosso
 2 recall telling her to get away from me.
 3 That's what I recall.
 4 Q How big is Ms. Rabinovich?
 5 A I don't recall. At that
 6 point in time she was a nice 5'5" maybe.
 7 Q And how tall are you,
 8 Mr. Capogrosso?
 9 A 5'10".
 10 Q And are you a bigger guy.
 11 are you a muscular guy?
 12 A Oh, absolutely. I'm not
 13 going to deny that. I work out every
 14 day.
 15 Q So you're, it's safe to say,
 16 a lot more physically imposing than
 17 Ms. Rabinovich was; is that correct?
 18 A That's why I was trying to
 19 move away from her. I'm 210. I'm 5'10",
 20 210. That's why I'm trying to get away
 21 from her.
 22 Q All right.
 23 A That's why I'm telling her
 24 to get away from me.
 25 Q Okay. Let's move on to the

10 (Pages 158 - 161)

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1 M.H. Capogrosso
 2 next document. I'll stop the Screen
 3 Share.
 4 MR. THOMPSON: And, Madam
 5 Court Reporter, that was Exhibit 4.
 6 Q I'm going to share another
 7 document here.
 8 Mr. Capogrosso, can you see
 9 this document?
 10 A Yeah.
 11 Q And what is this document?
 12 Do you recognize it?
 13 A Well, it's from Marisol. I
 14 know Marisol.
 15 Q And this document you
 16 produced and Bates stamped P-84; correct?
 17 A Yes.
 18 Q And so what is this specific
 19 document?
 20 A I guess it's her complaint
 21 about me that I was acting aggressively
 22 toward her.
 23 MR. THOMPSON: Okay.
 24 Ms. MacDonald, can I ask you to
 25 please mark this as Exhibit 5?

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1 M.H. Capogrosso
 2 (The above-referred-to
 3 statement was marked as Exhibit 5 for
 4 identification as of this date.)
 5 Q So, Mr. Capogrosso, who is
 6 Marisol Cervoni?
 7 A She's a clerk at the TVB,
 8 Brooklyn TVB.
 9 Q Did you have a good
 10 relationship with her?
 11 A She was a clerk. I just --
 12 I went to the counter and she helped me
 13 get the tickets for the day. She was a
 14 clerk. I wasn't trying to have a
 15 relationship with clerks. I wasn't
 16 trying to have a relationship. I was
 17 just trying to deal with her and to do my
 18 job.
 19 Q I understand,
 20 Mr. Capogrosso, but the question was did
 21 you have a good relationship with
 22 Ms. Cervoni?
 23 A I had a good relationship on
 24 a business level with all the clerks. I
 25 went up to the counter, I gave them my

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1 M.H. Capogrosso
 2 tickets that I needed for the day. Can I
 3 please have my tickets, thank you very
 4 much. That's all I said or did.
 5 Q Okay.
 6 A I did what was required to
 7 do.
 8 Q So --
 9 A Did I talk to her after work
 10 or during work or have conversations with
 11 her, no. I did my business at the
 12 counter or when I put the ticket in the
 13 courtroom. That was the extent of it.
 14 Hello, here's my ticket, thank you.
 15 Q So, Mr. Capogrosso,
 16 Ms. Cervoni writes that on June 9, 2009
 17 at approximately 9:45 a.m. she called a
 18 customer to her counter. "The motorist
 19 was accompany by Michael, who is the
 20 assistant of Mr. Capogrosso who's one of
 21 the lawyers who represents motorists at
 22 their hearings at Brooklyn South."
 23 Who is Michael?
 24 A Well, at that point in time
 25 we were allowed to have paralegals. He

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1 M.H. Capogrosso
 2 would -- they were a lot of Russian
 3 clients down there. He was a paralegal
 4 that worked for me. He spoke Russian.
 5 He translated -- he translated clients
 6 who spoke Russian to English and helped
 7 in the courtroom when we needed
 8 translation.
 9 Q And you --
 10 A All the attorneys had a
 11 paralegal at that point.
 12 Q And did you employ him?
 13 A He was paid as an
 14 independent contractor.
 15 Q About how much did you pay
 16 him?
 17 A I don't know. It varied.
 18 It depends how many hours he put in.
 19 Q How much did you pay him per
 20 hour?
 21 A I don't recall.
 22 Q Do you have a ballpark
 23 estimate?
 24 A No. I don't recall. We
 25 paid him -- we paid him on a daily basis.

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1 M.H. Capogrosso
 2 I made sure he got paid every day for the
 3 work he did.
 4 Q And how long did you have an
 5 assistant for --
 6 A I don't recall.
 7 Q -- or a paralegal?
 8 A I don't recall how long.
 9 You know, it must have been -- all the
 10 other attorneys had them, so at some
 11 point in time I was doing well, I said
 12 let me take on and they all were using
 13 them, so I did.
 14 I don't recall the exact
 15 amount of time. I know they were all
 16 thrown out at one point in time because
 17 there were accusations against them, so
 18 they were thrown out of all the TVBs.
 19 Q What --
 20 A We weren't allowed to have
 21 them anymore.
 22 Q What were these accusations?
 23 A I don't know exactly. As I
 24 understand it, they were stealing,
 25 stealing from motorists, stealing from

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1 M.H. Capogrosso
 2 clients, stealing from lawyers, stealing
 3 from each other.
 4 Q Were there accusations
 5 against Michael?
 6 A No, no. Michael was a nice
 7 guy, real nice guy.
 8 Q And what was Michael's last
 9 name?
 10 A I don't remember, I really
 11 don't, but he was a nice guy. He had a
 12 brother --
 13 Q Did you --
 14 A His brother --
 15 Q Did you ever --
 16 A His brother worked for -- go
 17 ahead.
 18 Q Did you ever employ an
 19 assistant other than Michael?
 20 A His brother and I, when I
 21 first came down, his brother was a
 22 paralegal for Terry Horton. We became
 23 friends. I forgot his name. Andy was
 24 his brother.
 25 But did I ever employ him.

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1 M.H. Capogrosso
 2 no. He worked for -- Andy worked for
 3 Eugene Gabase(phonetic).
 4 Q So Michael is the only
 5 assistant --
 6 A Yes.
 7 Q -- that you employed; is
 8 that correct?
 9 A As I recall, yes, but Andy
 10 and I were friends.
 11 Q All right. So in here, in
 12 Exhibit 5 you see Ms. Cervoni writes that
 13 the motorist handed her driver's license.
 14 "And Michael called Mr. Capogrosso over
 15 to my window. Mr. Capogrosso thinking
 16 there was a problem approached my counter
 17 and aggressively and belligerently began
 18 yelling at me."
 19 Do you recall this incident?
 20 A I don't think I was
 21 aggressive or belligerent. I might have
 22 been loud. I do speak loudly. I want
 23 people to hear me when I speak. I think
 24 maybe she's a little oversensitive.
 25 Maybe I was trying to understand what was

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1 M.H. Capogrosso
 2 going on because I cared about my client
 3 and what was going on and I actually give
 4 a damn about my client and their
 5 licenses.
 6 So I was trying to get to
 7 the heart of the matter, but I was not
 8 belligerent or aggressive. Maybe I was
 9 loud.
 10 Q So do you recall this
 11 specific incident?
 12 A I recall Michael calling me
 13 over, yeah. I never cursed or insulted
 14 the woman, absolutely not, absolutely
 15 not. She doesn't put down what curse or
 16 insult I used. You make general
 17 allegations --
 18 Q Does she have to?
 19 A Well, yeah. If you make an
 20 accusation somebody is cursing or
 21 insulting me, tell me what I said. Tell
 22 me exactly. I might have been loud.
 23 Listen, I am loud. I want people to hear
 24 me when I speak. But tell me what word I
 25 used to curse or what word I used to

12 (Pages 166 - 169)

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1 M.H. Capogrosso
 2 insult. I'd like to know.
 3 I don't curse or insult
 4 women. It's not something I do.
 5 Q Does it make her wrong if
 6 she didn't list the curse word?
 7 A Absolutely, because I want
 8 to know what I'm being accused of. Don't
 9 accuse somebody of something if you can't
 10 stand behind it. Tell me what curse word
 11 I used and what word I used to insult
 12 you. I want to know that.
 13 Q So you --
 14 A Tell her that.
 15 Q So you admit that you were
 16 speaking with her, but you say you were
 17 not belligerent --
 18 A I wasn't --
 19 Q -- is that correct?
 20 A I wasn't belligerent. I was
 21 speaking loudly as I'm speaking to you.
 22 I speak in a loud voice. If she took it
 23 wrongly, I'm sorry.
 24 Q As you said, Mr. Capogrosso,
 25 you're a big guy. You're an athletic

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1 M.H. Capogrosso
 2 guy. Is it possible -- and when you
 3 speak loudly to someone, particularly a
 4 woman, isn't it possible that they are
 5 going to view that as aggressive and
 6 belligerent?
 7 A I don't know how you view
 8 it. I don't know how you view it. View
 9 it anyway you like. I wasn't cursing. I
 10 wasn't insulting. I might have been
 11 loud. I might have been talking loudly
 12 because I'm trying to get to the heart of
 13 the matter and help my client out, but
 14 how it's interpreted, I don't know.
 15 Q So she writes that she
 16 assured you there was no problem and that
 17 she had already printed out the ticket
 18 for your client, quote, "but at that
 19 point he was already out of control and
 20 continued yelling, cursing and insulting
 21 me."
 22 Is that true?
 23 A No. I never cursed or
 24 yelled or insulted, absolutely not.
 25 Absolutely not.

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1 M.H. Capogrosso
 2 Q So --
 3 A Absolutely not.
 4 Q So is Ms. Cervoni lying?
 5 A Yes. When she says I'm
 6 cursing and insulting and yelling, yes.
 7 I might have been loud, but not cursing
 8 and insulting.
 9 She doesn't put --
 10 Q Why would she --
 11 A -- down what I said.
 12 Q Why would she lie?
 13 A I don't know.
 14 Q What motivation would she
 15 have to lie about you?
 16 A Like I said, maybe I wasn't
 17 giving her gifts and presents and money
 18 like the other clerks were getting. The
 19 other attorneys were giving these clerks
 20 money for Christmas, buying them
 21 breakfast.
 22 Q Did --
 23 A You got to let me finish.
 24 Buying them breakfast in the
 25 morning, giving them parties. One of the

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1 M.H. Capogrosso
 2 attorneys says how much money are you
 3 giving the clerks for Christmas? I was
 4 not doing this. I was there to do a job.
 5 that's it. I was not trying to --
 6 Q So is --
 7 A -- endear myself to the
 8 clerks, I was not in any way. To me
 9 there was an appearance of impropriety if
 10 I tried to endear myself to these clerks
 11 by giving them gifts or buying them
 12 breakfast.
 13 Q Did --
 14 A You got to let me finish.
 15 Buying them breakfast --
 16 Q Sure.
 17 A -- or giving them cash as
 18 the other attorneys were doing. It was
 19 an appearance. I didn't want to do it.
 20 I just wanted to do my job.
 21 Was I loud? I definitely
 22 probably was loud, I'll admit to that.
 23 Was I cursing and insulting, absolutely
 24 not.
 25 Q Mr. Capogrosso, is it your

13 (Pages 170 - 173)

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1 M.H. Capogrosso
 2 testimony that Ms. Cervoni made this up
 3 because you weren't giving money to the
 4 clerks?
 5 A She's not telling the truth
 6 there. I did not curse and I didn't
 7 insult. I don't know why. I'm a zealous
 8 advocator in this court, that's what I
 9 took an oath to do, zealously advocate.
 10 I took an oath when I got sworn in.
 11 That's what I do.
 12 I didn't curse at --
 13 Q Do you think Ms. Cervoni
 14 wanted to see you gone from the TVB?
 15 A I don't know. I don't know.
 16 I think we became friends afterwards. I
 17 think we became friends right before we
 18 left. That's why I wanted to depose her.
 19 I think she really liked me at one point
 20 in time. She's a very beautiful woman.
 21 Marisol and I think at one point -- she's
 22 a nice woman and I think at one point we
 23 became friends.
 24 But was I trying to endear
 25 myself to any of these clerks, no. I was

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1 M.H. Capogrosso
 2 trying to do my job. That's all I'm
 3 required to do.
 4 Q She writes that -- she
 5 writes that "The supervisors, Geri,
 6 Danielle and John all came out to see
 7 what the commotion was and to resolve the
 8 situation, but he" and I assume that
 9 means you "refused to listen to reason or
 10 leave my counter."
 11 Did you refuse to leave?
 12 A I don't recall, no, no.
 13 Maybe I -- well, wait a second, wait.
 14 Wait a second. Maybe I wanted the issue
 15 resolved and I wanted some explanation of
 16 the issue, which is my duty to do. I
 17 have a duty to my client, not to a clerk,
 18 but to my client to make sure the issue
 19 is resolved, whatever this issue was.
 20 Michael called me over,
 21 there was an issue. I have a duty to
 22 make sure that issue gets resolved as the
 23 attorney for the motorist, that's my job.
 24 make sure it's resolved, right? That's
 25 the job of the attorney here, right? I

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1 M.H. Capogrosso
 2 had the obligation, so let me resolve it.
 3 Let me speak to somebody else if there's
 4 an issue and one person can't solve it.
 5 you go to another person and maybe they
 6 can solve it.
 7 So, yeah, I had a duty to my
 8 client to resolve that issue, so maybe --
 9 Q So she writes --
 10 Mr. Capogrosso, she writes "Throughout
 11 the day Mr. Capogrosso was taunting me.
 12 He would walk past my station making
 13 comments and smirking at me." Is that
 14 true?
 15 A No. Taunt? Wait a second.
 16 How exactly did I taunt? Now you give me
 17 the exact words I used. That's a lie.
 18 Smirk? You know, when an
 19 issue is resolved with me, it's resolved.
 20 I don't hold on -- you know, I don't keep
 21 going back after it. I did not smirk. I
 22 don't know what smirking is.
 23 First of all, is there a
 24 problem with smirking? I think we have a
 25 Vice President now that smirks all the

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1 M.H. Capogrosso
 2 time. She enjoys smirking. That's my
 3 opinion.
 4 I don't see anything wrong
 5 with smirking, though I don't recall
 6 doing it. I don't even know what
 7 smirking is. Laughing?
 8 Q Smirking is a little smile.
 9 A All right. We got a Vice
 10 President that seems to do it all the
 11 time. It's all right for the Vice
 12 President.
 13 Q I'm not sure I understand
 14 what this has to do with the Vice
 15 President.
 16 A Well, I'm telling you we
 17 have a Vice President now, Kamala, who
 18 likes to smirk.
 19 I don't -- I don't know what
 20 smirking is. I have an issue, I resolve
 21 the issue, I move on. I'm not trying to
 22 have a beef with a clerk at a DMV. That
 23 is not my issue to have a beef or an
 24 argument with a clerk. I need these
 25 clerks to help me out.

14 (Pages 174 - 177)

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1 M.H. Capogrosso
 2 Q If you don't know what
 3 smirking is --
 4 A I have -- I have no reason
 5 to have an argument or an altercation
 6 with a clerk. none. no reason.
 7 Q Mr. Capogrosso, if you don't
 8 know what smirking is, how do you know
 9 the Vice President does it?
 10 A Well, to me a smirk is when
 11 you laugh sarcastically. right, that's a
 12 smirk? That's what a smirk is, you laugh
 13 sarcastically.
 14 And once again I will
 15 repeat, it does me no good to have any
 16 type of issue with a clerk. I'm there to
 17 do a job. I smirk? Now I smirk? I mean
 18 I don't believe I'm being accused of
 19 smirking.
 20 Q I will tell you,
 21 Mr. Capogrosso, this is not the first
 22 complaint that we'll see today where
 23 someone indicates that you kept coming by
 24 and smiling at them and sort of taunting
 25 them throughout the day.

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1 M.H. Capogrosso
 2 A Well, you can --
 3 Q Do you have any response to
 4 that?
 5 A Well, you can make any
 6 complaint you like, it doesn't mean it's
 7 true and I have no reason, no reason to
 8 have any beef, any complaints with a
 9 clerk and clerks at this office that I
 10 need. Now, I was given no opportunity to
 11 respond to this, none at the time, none.
 12 Q Mr. Capogrosso she writes "I
 13 can no longer interact with
 14 Mr. Capogrosso at the service counter
 15 because I fear for my safety. On many
 16 occasions I've observed him display his
 17 aggressive behavior toward my coworkers,
 18 his clients, the other attorneys and
 19 their assistants."
 20 She feared for her safety,
 21 what does that mean to you?
 22 A I don't know. I treated her
 23 nicely and respectfully. Nicely and
 24 respectfully I treated this woman. I
 25 never threatened her or harmed her.

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1 M.H. Capogrosso
 2 I mean you can have any
 3 perception you like of somebody. You can
 4 have any perception you like. It doesn't
 5 mean that that's what I am.
 6 Q Were you aware --
 7 A I was a zealous advocate.
 8 but --
 9 Q Mr. Capogrosso, were you --
 10 A Let me finish.
 11 Q Sure.
 12 A Well, let me finish. What
 13 reason did she fear? What exactly did I
 14 do? See, I want to know the specifics.
 15 I don't want to know the allegations.
 16 Tell me exactly why you felt fearful.
 17 And let me tell you
 18 something, you tell me once, you never
 19 have to tell me twice. Tell me exactly
 20 what --
 21 Q Mr. Capogrosso --
 22 A -- I did. I'd like to know.
 23 Q Well, it seems here you
 24 yelled at her and cursed at her and
 25 wouldn't leave when she asked you to.

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1 M.H. Capogrosso
 2 A Well, I didn't yell and I
 3 didn't curse, I didn't insult. No words
 4 are shown, no words. What words were
 5 spoken?
 6 Now what I did --
 7 Q Mr. Capogrosso --
 8 A -- do, maybe I was loud, but
 9 I did not yell and I did not curse. I
 10 did not curse and I did not insult and
 11 for what reason she's fearful I do not
 12 know. I didn't schmooze with her in the
 13 morning and ask her how's she doing and
 14 is she okay and how is your weekend and
 15 how's all this. I didn't talk about all
 16 that stuff. I was there to do a job.
 17 Q Mr. Capogrosso, were you
 18 aware that there were people at the TVB
 19 who were afraid of you?
 20 A No.
 21 Q No?
 22 A None of these complaints
 23 were ever brought to me. You tell me
 24 once, you don't have to tell me twice.
 25 Q That's not the question

15 (Pages 178 - 181)

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1 M.H. Capogrosso
 2 though. The question is were you aware
 3 that there were people who were afraid of
 4 you?
 5 A No. Tell me who. I was
 6 never put on notice. You tell me once,
 7 you never have to tell me twice.
 8 Q Did anyone around you seem
 9 afraid of you?
 10 A Seem afraid? I don't know
 11 how other people feel. I know I have a
 12 very strong presence, I understand that.
 13 I've been told that I have a certain
 14 strong presence and maybe it's because a
 15 lot of things I've done in my life, but I
 16 do have a strong presence.
 17 Q If --
 18 A I've been told that.
 19 Q If someone was afraid of
 20 you, would you care?
 21 A I would try to rectify it.
 22 I would do everything I could in my
 23 ability to rectify it. But was I trying
 24 to endear myself to these clerks, no. I
 25 was trying to do a job.

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1 M.H. Capogrosso
 2 Q Were you aware that
 3 Ms. Cervoni had filed a complaint?
 4 A No, no, absolutely not.
 5 Like I said, if she had brought this to
 6 my attention I would have rectified it
 7 immediately. If anybody brought this to
 8 my attention, I would have rectified it
 9 immediately.
 10 Q She writes that you
 11 assaulted a female assistant who works
 12 for another lawyer. Is she referring to
 13 Ms. Rabinovich?
 14 A Yeah. That was not an
 15 assault. That's a lie. There was no
 16 assault. There was no assault. I would
 17 have been arrested if there's an assault.
 18 That's an absolute lie. Your words are
 19 very important here. You can't make
 20 accusations against somebody that aren't
 21 true.
 22 Q So why is Ms. Cervoni lying?
 23 A Why? I don't know. There
 24 was no assault.
 25 Q Why would --

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1 M.H. Capogrosso
 2 A Was I arrested for assault?
 3 Q Why would she lie?
 4 A Well, maybe she liked Tanya
 5 and she didn't like me. Maybe she liked
 6 Tanya and she didn't like me. I didn't
 7 schmooze with these law -- with these
 8 clerks. I wasn't there in the morning
 9 saying how was your day. I wasn't there
 10 saying how was your weekend. I wasn't
 11 there saying what do you want to do for
 12 lunch today.
 13 Q Well, she's --
 14 A I wasn't doing that.
 15 Q -- not saying that you're
 16 not saying, you know, asking her how
 17 she's doing, schmoozing her in the
 18 mornings. She's saying that you're
 19 physically scaring her.
 20 A How did I physically scare
 21 her? Tell me the specifics.
 22 Q You --
 23 A Tell me what I did.
 24 Q -- yelled at her and cursed
 25 at her and you wouldn't leave when she

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1 M.H. Capogrosso
 2 said to leave.
 3 A I didn't curse. I might
 4 have been loud. I didn't curse.
 5 Q She says she had to go to
 6 the back office to get away from you.
 7 A Well, that was her decision.
 8 My duty is to my client. If a supervisor
 9 comes out, I'm trying to resolve the
 10 issue, I'm going to talk to the
 11 supervisor.
 12 Q Do you remember her leaving
 13 to get away from you?
 14 A No.
 15 Q She writes "His aggressive
 16 behavior has steadily progressed within
 17 the past few months. I no longer feel
 18 comfortable at my place of employment
 19 because of this individual's behavior and
 20 I wish to go on record in the event of
 21 any future conflicts."
 22 A Well --
 23 Q Had your aggressive behavior
 24 been progressing?
 25 A I don't know what she means

16 (Pages 182 - 185)

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1 M.H. Capogrosso
 2 by aggressive behavior. Tell me what I
 3 did.
 4 Q Well, were you aware at this
 5 point that there have been multiple
 6 incidents where people claimed that you
 7 had been aggressive?
 8 A No, no, no. I --
 9 Q You had no idea that anyone
 10 complained about the incident with
 11 Ms. Rabinovich?
 12 A No, no. You tell me -- I've
 13 never seen these complaints. If Judge
 14 Gelbstein was doing his job or his
 15 clerical supervisor was doing their job,
 16 they would have brought this complaint to
 17 my attention and I would have resolved
 18 it. You tell me once, you don't have to
 19 tell me twice.
 20 Q So --
 21 A You have to let me finish.
 22 You tell me once, you never have to tell
 23 me twice. You have to let me finish.
 24 Q So --
 25 A Let me finish.

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1 M.H. Capogrosso
 2 Q Sure.
 3 A This was never brought to my
 4 attention so I could resolve it. I'm
 5 there working on a daily basis. I have
 6 no reason to have any altercations with
 7 anybody. I was there to zealously
 8 advocate on behalf of my clients.
 9 You tell me what the
 10 aggressive behavior is and I will resolve
 11 it, but don't accuse me of something --
 12 Q So --
 13 A You got to let me finish.
 14 Q Sure.
 15 A -- and leave out the details
 16 of what the aggressive behavior was, then
 17 don't show me this affidavit ever or
 18 bring it to my attention so I can resolve
 19 it. That's not being fair.
 20 Q So Mr. Capogrosso --
 21 A You've got to let me finish.
 22 Q I do need to ask another
 23 question.
 24 A You have to let me finish.
 25 I'm not finished.

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1 M.H. Capogrosso
 2 That is not being fair to
 3 me. You have to let me finish. You're
 4 not being fair to me if you make an
 5 accusation and you don't let me address
 6 it and resolve it, you're not being fair
 7 to me.
 8 Q All right.
 9 A You have let me finish.
 10 Q Mr. Capogrosso, let's move
 11 on to the next question.
 12 A I want to finish.
 13 Q Respectfully --
 14 A You're not --
 15 Q -- we are going to move on
 16 to the next question.
 17 A You're not being fair to me
 18 if you don't let me address that issue.
 19 Q Mr. Capogrosso, you've been
 20 addressing the issue. We have other
 21 questions that we need to get to, the
 22 first of which is yesterday at his
 23 deposition, Judge Gelbstein testified
 24 that when he received a complaint about
 25 you, he would take you into his office

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1 M.H. Capogrosso
 2 and speak with you verbally about it.
 3 Did he do that in this
 4 case --
 5 A No, he did not.
 6 Q -- with the complaints?
 7 A No.
 8 Q Do you remember him ever
 9 taking you to his office to discuss
 10 complaints about you and about aggressive
 11 behavior?
 12 A Absolutely not. Now --
 13 Q Not once?
 14 A You have to let me finish.
 15 Q Sure.
 16 A All these complaints, Judge
 17 Gelbstein never presented to me one of
 18 these complaints, not one, because I
 19 would have filed --
 20 Q Mr. Capogrosso --
 21 A You have to let me finish.
 22 Mr. Thompson, you've got to let me
 23 finish.
 24 Q Well, let me clarify the
 25 question.

17 (Pages 186 - 189)

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1 M.H. Capogrosso
 2 MS. REPORTER: Wait, time
 3 out. I'm going off the record right
 4 now.
 5 Q Mr. Capogrosso --
 6 MS. REPORTER: Time out.
 7 I'm stopping. I'm not even writing
 8 this.
 9 MR. THOMPSON: Let's go off
 10 the record.
 11 MS. REPORTER: Off the
 12 record, please, off the record. We
 13 are having an issue.
 14 MR. THOMPSON: Off the
 15 record, please.
 16 MR. VIDEOGRAPHER: The time
 17 is 12:40. We are off the record.
 18 (A short recess was taken.)
 19 MR. VIDEOGRAPHER: The time
 20 is 12:45. We are on the record.
 21 Q So, Mr. Capogrosso, as I
 22 mentioned, yesterday at his deposition
 23 Judge Gelbstein testified that when he
 24 received a complaint about you, he would
 25 take you into his office and tell you

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1 M.H. Capogrosso
 2 verbally the substance of that complaint.
 3 Do you remember him
 4 testifying to that?
 5 A He testified to it.
 6 Q Did that happen in this
 7 case, in the case of Ms. Cervoni's
 8 complaint?
 9 A Not to me, no, never.
 10 Q Do you remember him ever
 11 having a verbal conversation with you
 12 about complaints that had been made about
 13 you?
 14 A No, nothing, no because he
 15 never gave me any complaint to respond
 16 to. I would have responded.
 17 Q And let me clarify the
 18 question. I'm not asking whether he gave
 19 you the physical hard copy complaint.
 20 I'm asking whether he verbally told you
 21 about complaints that had been made about
 22 you?
 23 A No. You tell me once --
 24 Q He never did that?
 25 A No. You tell me once, you

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1 M.H. Capogrosso
 2 don't have to tell me twice.
 3 Q So was Mr. Gelbstein lying
 4 when he said that he spoke with you
 5 verbally about complaints?
 6 A Yes. I've never -- he never
 7 gave me a specific of any complaint that
 8 I could respond to, never the specific of
 9 any complaint that I could respond to and
 10 resolve.
 11 Q Did he ever tell you that
 12 there had been complaints without giving
 13 you the specifics?
 14 A No. Give me the specific
 15 complaint. No. Tell me what it is and I
 16 will respond and resolve it.
 17 Q So were you aware that there
 18 had ever been any complaint made about
 19 you by any person?
 20 A No, no. I saw no
 21 complaints. People didn't like me. I
 22 understand that, but I saw no complaints
 23 from anyone that I could respond to and
 24 resolve because --
 25 Q And --

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1 M.H. Capogrosso
 2 A -- I'm the first one to
 3 attempt to resolve it.
 4 Q And Mr. Capogrosso I want to
 5 make this question very clear. I'm not
 6 asking whether you saw a physical hard
 7 copy paper complaint. I'm asking you
 8 were you ever aware that anyone had ever
 9 made a complaint about your conduct?
 10 A No.
 11 Q Let's move on to a new
 12 document. I'll close out of that one.
 13 MR. THOMPSON: I'm not sure
 14 if we marked that one, Ms. MacDonald,
 15 but let's mark that Exhibit 5 if we
 16 haven't already, the previous one.
 17 Q Mr. Capogrosso, can you see
 18 this document?
 19 A Yes.
 20 Q Do you recognize this
 21 document?
 22 A Yeah. I recognize the top
 23 portion of it, but I'm sure it's --
 24 Q And you see this document
 25 was produced by you and marked P-86;

18 (Pages 190 - 193)

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1 M.H. Capogrosso
 2 correct?
 3 A Yes.
 4 Q What is this document?
 5 A I don't know. It's a
 6 complaint from Diantha Fuller I guess.
 7 MR. THOMPSON: Can I, Madam
 8 Court Reporter, can I ask you to mark
 9 this as Exhibit 6?
 10 (The above-referred-to
 11 statement was marked as Exhibit 6 for
 12 identification as of this date.)
 13 Q Mr. Capogrosso, my first
 14 question is these redactions up at the
 15 top, did you add these?
 16 A No.
 17 Q Where are they from?
 18 A Where are they from? I
 19 don't know where they're from. I know
 20 you submitted it to my office and then I
 21 returned it.
 22 Q Because to my knowledge,
 23 these were not redacted --
 24 A Oh.
 25 Q -- when we submitted them.

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1 M.H. Capogrosso
 2 A I'll tell you where I got
 3 this. I got this redacted like this in
 4 a motion -- in your motion to dismiss,
 5 this was attached redacted. You filed
 6 these affidavits. The first time I'm
 7 seeing these affidavits is in your motion
 8 to dismiss to me and they were redacted
 9 in that manner. That's where I got it.
 10 Q Okay. So who is Diantha L.
 11 Fuller?
 12 A She's a lawyer that worked
 13 down there.
 14 Q And do you have a good
 15 relationship with Ms. Fuller?
 16 A No. Diantha did not like
 17 me. Diantha did not like me. She did
 18 not like me at all.
 19 Q Why not?
 20 A I don't know. She just
 21 didn't like me. I didn't talk to her. I
 22 didn't socialize with her. I didn't like
 23 the type of attorney she was.
 24 Q What type of attorney was
 25 she?

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1 M.H. Capogrosso
 2 A Well, she just pretty much
 3 pleaded you guilty. She went into the
 4 courtroom, took a case, postponed it and
 5 she just entered a guilty plea. She
 6 didn't really argue for her clients and I
 7 felt that was terrible.
 8 She's used to solicit
 9 attorneys -- solicit clients all the
 10 time, solicit clients all the time.
 11 She'd walk up to a client in the morning,
 12 hand them his bus -- her business card
 13 and says here, I'm a lawyer. I thought
 14 it was terrible. Judge Gelbstein allowed
 15 it.
 16 So I didn't like her as an
 17 attorney whatsoever. It was terrible
 18 what she was doing. There's signs all
 19 around that say you shouldn't solicit and
 20 she was soliciting everybody.
 21 Q So Ms. Fuller writes "As
 22 requested by your staff, below is Agnes
 23 Paez's report of the events that
 24 transpired on 7/31/09 in the Coney Island
 25 Traffic Bureaus, which I took directly

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1 M.H. Capogrosso
 2 from an e-mail she submitted to me."
 3 Do you know who Agnes Paez
 4 is?
 5 A Yes. She was a paralegal
 6 down there.
 7 Q And who did she work for?
 8 A Well, actually I do remember
 9 her now. Now actually this lady did work
 10 for me for a while before Michael came on
 11 and then went to work -- she did, she
 12 worked as a translator. She spoke
 13 Spanish. She did work for a couple of
 14 months I think. I don't know exactly how
 15 long, but for a couple of months with me
 16 down there. She was a translator.
 17 And I didn't like what she
 18 was doing, so I let her go and I brought
 19 Michael in instead.
 20 Q And was this time that she
 21 worked with you before or after July 31,
 22 2009?
 23 A It was before. Before then,
 24 before then.
 25 Q And you said you fired

19 (Pages 194 - 197)

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1 M.H. Capogrosso
 2 Ms. Paez; is that true?
 3 A I told her -- well, she
 4 went -- I said we are not going to work
 5 anymore together. I didn't like what she
 6 was doing.
 7 Q What was she doing that you
 8 didn't like?
 9 A She was soliciting.
 10 soliciting motorists in the parking lot
 11 and they was walking in. It was
 12 embarrassing. She was hungry for money
 13 this woman. She was walking -- she
 14 was -- and the other attorneys were
 15 complaining, too. She was in the parking
 16 lot as motorists were walking in in the
 17 morning, she was handing out business
 18 cards. I said you can't do that, you're
 19 a translator.
 20 She was soliciting motorists
 21 as they were walking in the building. I
 22 said it's terrible.
 23 Q Was she soliciting -- I
 24 apologize. Keep going.
 25 A Yeah. It was terrible what

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1 M.H. Capogrosso
 2 she was doing. I said I'm not having
 3 this.
 4 Q Was she soliciting these
 5 motorists on your behalf to work for you?
 6 A Well, it seemed like that
 7 and as soon as I saw that happen, I said
 8 that's it, no more, no more. You're not
 9 supposed to solicit. You don't walk up
 10 to clients. You're here as a translator.
 11 Now she was doing it for
 12 Diantha and Diantha didn't seem to have
 13 any problem with it, which is the other
 14 reason I didn't like Diantha because
 15 Diantha was soliciting and Agnes was
 16 soliciting. I said you girls do what you
 17 want. I'm not going to engage in that.
 18 Q So Ms. Paez writes that she
 19 was speaking with a client on behalf of
 20 Ms. Fuller when she was approached by
 21 you. You then "stood in front of me and
 22 told Ms. Fuller's client that I was not a
 23 lawyer and he should not be speaking to
 24 me. He then handed my client his
 25 business card."

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1 M.H. Capogrosso
 2 Is that true?
 3 A No. That's not true. I
 4 don't think I ever would have interrupted
 5 another person in a conversation, that's
 6 not what I do, absolutely not.
 7 Q And she says the client did.
 8 in fact, know that Ms. Paez was not an
 9 attorney and was shocked at your
 10 behavior.
 11 She writes "Mr. Capogrosso
 12 then turned to me and called me a variety
 13 of vulgar and profane names and
 14 threatened me with violence to stay away
 15 from the Department of Motor Vehicles."
 16 Is that true?
 17 A No. It's absolutely a lie.
 18 I would have been arrested for that,
 19 Counselor. I would have been -- a police
 20 report would have been filed and I would
 21 have been arrested, arrested if that's
 22 true.
 23 Now you can say --
 24 Q Do you remember --
 25 A -- what you like. I would

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1 M.H. Capogrosso
 2 have been arrested.
 3 Q Do you remember this
 4 incident?
 5 A No, I absolutely do not. I
 6 know I didn't like what she was doing
 7 down there. Judge Gelbstein condoned it.
 8 There's nothing I could do about it. But
 9 did I ever approach her, absolutely not.
 10 There was no reason for me to. I had
 11 plenty.
 12 Q Why would -- why would
 13 Ms. Paez lie?
 14 A I don't know. Diantha
 15 didn't like me. I saw what she was doing
 16 soliciting. I let her go. I didn't want
 17 to work with her anymore.
 18 Q So you don't know why she
 19 would lie?
 20 A I don't know. What she's
 21 saying here is not the truth. I have no
 22 reason to interfere between two people.
 23 I had no reason to interfere. I had
 24 plenty of clients down there. My clients
 25 liked me.

20 (Pages 198 - 201)

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Page 202

1 M.H. Capogrosso
 2 Q So. Mr. Capogrosso, you're
 3 telling us that a lot of people are
 4 telling the same lie about you, that
 5 they're all lying the same way, they're
 6 all saying that you yelled and screamed
 7 and cursed at them. Why would they all
 8 tell the same lie?
 9 A I have no idea. I'm
 10 responding to each affidavit in kind, all
 11 right. I'm responding to this affidavit
 12 in kind. Let's just stick to this one.
 13 Let's be very specific, not general. If
 14 there's affidavits written against me, I
 15 will address them.
 16 Now, this affidavit --
 17 Q Well, I think it's --
 18 A Go ahead.
 19 Q I'm sorry, Mr. Capogrosso,
 20 sometimes when you speak you pause and I
 21 think you're done with your response and
 22 then I speak up.
 23 A This affidavit states
 24 generalizations, nothing specific. It
 25 states in a violent manner. What exactly

Page 203

1 M.H. Capogrosso
 2 did I do? Towering over me, what exactly
 3 did I do? Threatening, what exactly did
 4 I do to threaten? Frighten, what did I
 5 do to frighten? You tell me. I used
 6 vulgar and profane names. Tell me the
 7 names I used. Tell me exactly what I did
 8 to threaten.
 9 Now you might feel that,
 10 that might be your perception, but tell
 11 me the specifics that I actually did and
 12 there are none listed here.
 13 Q Well, she says that you
 14 turned to her and you tried to get her to
 15 stop speaking to somebody, you called her
 16 a variety of vulgar and profane names and
 17 you threatened her with violence. I mean
 18 that may not be specific enough for you,
 19 but it's pretty specific.
 20 A Well, how exactly did I
 21 threaten? What did I say, I'm going to
 22 hit you? What did I say?
 23 Q Does it matter what you
 24 said?
 25 A It does.

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1 M.H. Capogrosso
 2 Q I mean if --
 3 A It's your allegations.
 4 Well, tell me what I said. Tell me
 5 exactly what was said. Give me an
 6 opportunity to respond.
 7 Q She's characterizing your
 8 speech. She said you said vulgar and
 9 profane names and threatened her with
 10 violence.
 11 A Well, first of all I did, I
 12 would never talk to a woman like that,
 13 but I want to know exactly what was said.
 14 Tell me what was said. You can make --
 15 you know, I can write affidavits about
 16 everybody down there. I can say the same
 17 thing about somebody.
 18 You can't make these blatant
 19 accusations about people and don't give
 20 the specifics. Exactly what was said?
 21 If I threatened somebody with violence, I
 22 would have been arrested.
 23 Q She writes "Finally
 24 Mr. Capogrosso told me to stay away from
 25 him in a very violent manner, towering

Page 205

1 M.H. Capogrosso
 2 over me and spoke so loudly and in a
 3 threatening manner that a plain clothes
 4 policeman standing next to me asked if he
 5 needed to get involved."
 6 Do you -- does that refresh
 7 your recollection at all?
 8 A No. I was never arrested
 9 for anything. I did nothing wrong.
 10 Obviously the cop understood that.
 11 Q You know that you're a big
 12 and intimidating guy. Do you ever get in
 13 someone's personal space because you know
 14 that --
 15 A Absolutely not, no.
 16 Q What did --
 17 A I avoid situations. I don't
 18 want a situation. I avoid if -- I
 19 absolutely avoid. Will I confront when
 20 necessary, yes. When it's on behalf of
 21 my client, yes.
 22 But if you're going to tell
 23 me I threatened you, you better tell me
 24 exactly what I said to threaten you. I
 25 would never threaten a woman number one.

21 (Pages 202 - 205)

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1 M.H. Capogrosso
 2 Q Well, a number of people
 3 have asserted that you did and we'll see
 4 a couple more throughout the course of
 5 the day.
 6 A Well, let's go through them
 7 one at a time.
 8 Q All right. She writes
 9 again, "I was especially nervous because
 10 I am six months pregnant and I was in
 11 fear his outbursts would turn violent."
 12 A Well, you --
 13 Q Do you have any response to
 14 that?
 15 A You might have any
 16 perception you want. I don't recall
 17 having any altercation with this woman,
 18 other than telling her I didn't want her
 19 working for me anymore and as she was
 20 soliciting motorists in the parking lot
 21 and soliciting motorists on the DMV floor
 22 and Diantha Fuller was condoning all
 23 these actions.
 24 Q So is Ms. Fuller lying here?
 25 A About what? What's

Page 207

1 M.H. Capogrosso
 2 Ms. Fuller's statements?
 3 Q Well, she's passing along
 4 this statement from her paralegal.
 5 A Well, Ms. Fuller did not
 6 observe it now, did she, so I don't know
 7 what Ms. Fuller is observing.
 8 Q But Ms. Paez is lying, is
 9 that your testimony?
 10 A I did not threaten a woman.
 11 I would never threaten a woman in my
 12 life.
 13 Q So yes, she's lying?
 14 A Yes, yes, absolutely lying.
 15 Q And you have no -- and you
 16 have no sense of why she would lie; is
 17 that correct?
 18 A I don't think you need a --
 19 I don't know why. We are all
 20 competitive. We are all going after the
 21 same summonses down there. All going
 22 over the same summonses. Did the woman
 23 like me, no.
 24 Q So you think that's why
 25 she's lying?

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1 M.H. Capogrosso
 2 A I don't know why she's
 3 lying, I have no idea, but what's -- if
 4 you're going to accuse me of threatening
 5 you, tell me the words I used or have me
 6 arrested, but don't threaten -- don't say
 7 something like that --
 8 Q All right.
 9 A -- ruin my reputation and my
 10 name and don't give me the specifics of
 11 exactly what I did.
 12 Q So let's move on to the next
 13 exhibit.
 14 MR. THOMPSON: And,
 15 Ms. MacDonald, I can't recall whether
 16 we had that marked, but that previous
 17 exhibit, let's have that marked as
 18 Exhibit 6 if hasn't been already.
 19 Q Mr. Capogrosso, can you see
 20 the exhibit?
 21 A Ah, yes, all the clerks
 22 don't like me. They're signing their
 23 names, yes, yes.
 24 Q So do you recognize this
 25 document?

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1 M.H. Capogrosso
 2 A Yes, absolutely.
 3 Q And what is this document?
 4 A This is a complaint. This
 5 was something --
 6 Q What is this document?
 7 A I have no idea. Something
 8 that all the clerks signed that Bushra
 9 Vahdat had them sign.
 10 Q And this document was
 11 produced by us and it's Bates stamped DMV
 12 lots of zeros 244; correct?
 13 A Yeah. Yes. The clerks
 14 didn't like me, I know that.
 15 Q You see that down in the
 16 lower right?
 17 A Yeah. The clerks didn't
 18 like me. I know that.
 19 Q And so, Mr. Capogrosso,
 20 what's this document?
 21 A I don't know. This is an
 22 affidavit by all the clerks.
 23 Q It's not an affidavit. I
 24 don't think there's a notarization or
 25 anything.

22 (Pages 206 - 209)

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1 M.H. Capogrosso
 2 A I don't know what it is.
 3 It's a bunch of signatures.
 4 Q Either way --
 5 A It's a bunch of signatures
 6 by people at the DMV.
 7 MR. THOMPSON: Ms.
 8 MacDonald, can we have this marked as
 9 Exhibit 7?
 10 (The above-referred-to
 11 statement along with signatures was
 12 marked as Exhibit 7 for
 13 identification as of this date.)
 14 Q And so the people who signed
 15 this document, right, "We the undersigned
 16 clerks, supervisors and judges of the
 17 Brooklyn South Traffic Violations Bureau
 18 state that we feel the presence of
 19 attorney Mario Capogrosso on our premises
 20 constitutes a threat to our physical
 21 safety."
 22 Why would they think that,
 23 Mr. Capogrosso?
 24 A I have no idea. Tell me the
 25 specifics. I have no idea. You can't

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1 M.H. Capogrosso
 2 make allegations against a man and his
 3 reputation if you don't give me the
 4 specifics that occurred and give me an
 5 opportunity to respond and resolve it.
 6 Let me know what I did.
 7 Q Did people --
 8 A I'd like to know.
 9 Q Did people view you as a
 10 threat to their physical safety?
 11 A I don't know. I have no
 12 idea, none. I can't answer that. They
 13 might have. They --
 14 Q Did --
 15 A They might have.
 16 Q Were they right to view you?
 17 A I don't know. I am -- you
 18 know, I was dealing with a lot of tough
 19 guys down there, a lot of tough
 20 motorists. There are tough guys down
 21 there in Brooklyn, they are. I'm dealing
 22 with a lot of tough guys.
 23 And do I have a strong
 24 presence, absolutely, I admit that. Do I
 25 come across with a strong presence,

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1 M.H. Capogrosso
 2 absolutely. How you perceive me, that's
 3 up to you. What did I actually do is a
 4 different situation. You can perceive me
 5 in any manner you like. What did I
 6 actually do?
 7 Q What do you mean by strong
 8 presence?
 9 A I do have a strong presence.
 10 I've been told that. I'm not --
 11 Q What do you mean by the term
 12 strong presence?
 13 A Well, I'm not afraid to
 14 speak my mind. I'm not afraid to
 15 confront. I'm not afraid to confront,
 16 that's what lawyers do. I'm -- I -- I
 17 state the truth, I get right to the issue
 18 and I try to resolve it. That's who I am
 19 as a person, as a man, as an attorney,
 20 that's who I am.
 21 If you perceive -- if you
 22 have a perception of me that you feel,
 23 tell me what I did. Give me an
 24 opportunity to resolve it. Give me the
 25 opportunity to resolve it. Don't just

Page 213

1 M.H. Capogrosso
 2 make blatant accusations against a man.
 3 Q When you say strong
 4 presence, do you mean strong physical
 5 presence?
 6 A I have a strong physical
 7 presence, a strong persona. People say
 8 that when I walk in the room, they feel
 9 me or they sense me. I don't know why.
 10 they do. They -- I've been told this. I
 11 don't know why.
 12 I'm trying to figure out why
 13 they feel intimidated by me. I don't
 14 know why. But if they do, give me an
 15 opportunity to resolve it.
 16 Q But you knew that some
 17 people felt intimidated by --
 18 A No, I did not.
 19 Q -- you; is that correct?
 20 A I did not. I did not. I
 21 speak to everybody the same. I speak to
 22 everybody the same. If you feel that
 23 type -- if you feel that, give me an
 24 opportunity to resolve it. Give me an
 25 opportunity.

23 (Pages 210 - 213)

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1 M.H. Capogrosso
 2 Q But were you aware that
 3 people were intimidated by your strong
 4 physical presence?
 5 A No, no. Absolutely not.
 6 I'm sorry if -- I'm sorry if I have a
 7 strong physical presence. I'm sorry.
 8 You're allowed to have a strong physical
 9 presence. You're allowed. You're
 10 allowed.
 11 Q So Mr. Capogrosso --
 12 A You have to let me finish.
 13 I can't help that. You're allowed to
 14 have that.
 15 Q So Mr. Capogrosso, they
 16 write "We believe that Mr. Capogrosso's
 17 behavior is unstable and hereby state
 18 that he has gotten into confrontations
 19 with many of us in the past years" and
 20 you'll see some of the names on this list
 21 like Marisol Cervoni are the list of
 22 people who have filed complaints or
 23 otherwise indicated that they had
 24 confrontations with you.
 25 A Well, they --

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1 M.H. Capogrosso
 2 Q They write "These
 3 confrontations have been escalating to
 4 the point where a physical confrontation
 5 has nearly ensued between him and a
 6 Brooklyn South employee on January 5,
 7 2011 after the close of business."
 8 Do you know what they're
 9 referring to?
 10 A Absolutely. I remember
 11 that. Absolutely.
 12 Q And what incident are they
 13 referring to?
 14 A I'm going to the counter on
 15 a ticket. There's George and then
 16 there's Cindy. Cindy is George's
 17 girlfriend, I didn't realize this, but
 18 she's a nice lady. I was talking to
 19 Cindy. I actually thought Cindy was a
 20 very pretty woman. I was taking to
 21 Cindy. George is getting upset I guess.
 22 I didn't realize they were dating. I had
 23 no idea.
 24 He starts yelling and
 25 screaming at me. I said that's enough,

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1 M.H. Capogrosso
 2 I'll talk to you about it later and
 3 that's it. But now I'm not allowed to
 4 talk to a clerk. I didn't know that
 5 Cindy and George were dating and now I'm
 6 not allowed to talk to Cindy. So I was
 7 talking to Cindy. George got upset. He
 8 starts yelling and screaming at me. I
 9 said I'll talk to you about it later if
 10 you want to talk and I said the word
 11 talk. I didn't threaten anybody. I said
 12 the word talk.
 13 Q Who told you that you
 14 weren't allowed to talk to someone?
 15 A George was getting upset.
 16 George was getting upset. I don't know.
 17 I was talking --
 18 Q Were you flirting with --
 19 A I wasn't flirting.
 20 Q Were you flirting with
 21 Cindy?
 22 A Cindy's a beautiful woman.
 23 Cindy was a beautiful woman. Was I
 24 flirting? I don't know if I was
 25 flirting. Did I like Cindy? Cindy was

Page 217

1 M.H. Capogrosso
 2 very pretty.
 3 When I found out that they
 4 were dating, I said that's it.
 5 Q What did you say to Cindy?
 6 A I wasn't flirting. I
 7 thought Cindy was a very attractive
 8 woman. Marisol Cervoni is a very
 9 attractive woman.
 10 Q But what did you say to
 11 Cindy on this day, January 5?
 12 A I don't remember. I know it
 13 was maybe how are you doing, what are you
 14 doing for the weekend, are you going --
 15 you know, maybe something to that. I
 16 don't know. I don't remember the
 17 specifics.
 18 But I do remember I liked --
 19 Cindy was a nice lady. She was a nice
 20 lady and she was a beautiful woman.
 21 Q Did you try to -- did you
 22 try to fight Mr. Hon (phonetic)?
 23 A No. Absolutely not.
 24 Q Did you block in his car?
 25 A Absolutely not. If you look

24 (Pages 214 - 217)

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1 M.H. Capogrosso
 2 at the --
 3 Q What happened?
 4 A If you look at the affidavit
 5 that George Hon wrote, George Hon wrote,
 6 not what Bushra Vahdat said happened,
 7 what George Hon wrote was that I was
 8 sitting in my car, which I do after work.
 9 to make phone calls to my clients, which
 10 I'm required to do and that George
 11 approached me, got out of his car. At
 12 that point I get out of my car.
 13 If somebody approaches me in
 14 their car, stops their car -- if they
 15 stay in the car, I stay in the car. If
 16 you get out of your car, I'm getting out
 17 of my car. And he approached me. That's
 18 what George Hon wrote. Read it.
 19 Q So did you have any sort of
 20 confrontation with George Hon out in the
 21 parking lot?
 22 A I said what's the problem.
 23 He started yelling and screaming at me
 24 about this and that. I said what's the
 25 problem. Then I find out they're dating.

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1 M.H. Capogrosso
 2 I said fine, hands off, I don't need this
 3 aggravation. She's a nice woman, but I
 4 don't need the aggravation.
 5 Q So he yelled at you. You
 6 didn't yell at him?
 7 A I'm sitting in my car like I
 8 do every day. Either I go there, I sit
 9 in a park, sometimes I go to the beach.
 10 I'm sitting there. I'm making phone
 11 calls. I'm sitting in my car.
 12 Read what George wrote and
 13 then read what Bushra Vahdat wrote, some
 14 story. I'm blocking people. Read what
 15 George wrote. He approaches me. He gets
 16 out of his car. I'm sitting in my car.
 17 That's the truth.
 18 Q And so did George and Bushra
 19 lie?
 20 A George didn't lie. Bushra
 21 lied. Bushra lied.
 22 Q Okay.
 23 A Bushra should not be a judge
 24 if you make up a story like that.
 25 Q So, Mr. Capogrosso, you see

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1 M.H. Capogrosso
 2 this petition where 18 people sign a
 3 letter saying that they believe that
 4 you're a threat to their safety and that
 5 your behavior is unstable.
 6 What do you think that the
 7 TVB should have done about this petition?
 8 A They should have shown it to
 9 me, number one. They should have shown
 10 it to me, number one.
 11 Number two, they should have
 12 told me exactly what I did, exactly what
 13 I did and to give me an attempt to
 14 resolve it. Give me an attempt to
 15 resolve it. Give me the specifics, give
 16 me a chance to apologize if I said
 17 something wrong or I did something wrong.
 18 Give me an opportunity to apologize.
 19 Give me an opportunity to address it.
 20 Tell me the specifics.
 21 Now, the fact that you feel
 22 intimidated by my presence, I can't help
 23 that. I'm sorry. I can't. I am who I
 24 am. I can't help it. I can't change it.
 25 I am who I am. I've been very direct

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1 M.H. Capogrosso
 2 with you, very direct to the Court. I am
 3 who I am.
 4 But if you feel that well,
 5 maybe that's your own personal
 6 insecurity. You might have personal
 7 insecurities. They're not my
 8 insecurities. They're your insecurities.
 9 But give me the exact threats that I used
 10 or what exactly I did.
 11 But if you have personal
 12 insecurity, don't put that personal
 13 insecurity on me.
 14 Q Mr. Capogrosso, so this is a
 15 petition which 18 separate people say
 16 that they think that you're unstable and
 17 a threat to their safety. How do you
 18 feel about that?
 19 A I want to know the
 20 specifics. I feel insulted, number one
 21 and I feel improperly accused. Tell me
 22 what I did. Give me an opportunity to
 23 defend myself and respond and respond to
 24 it and resolve it. Give me that
 25 opportunity. Don't make --

25 (Pages 218 - 221)

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1 M.H. Capogrosso
 2 Q Do you think you did --
 3 A Don't make accusations and
 4 don't give me an opportunity to respond.
 5 Q Do you think you did
 6 anything wrong to have 18 people feel
 7 that you're a threat to their physical
 8 safety?
 9 A I want to know the exact
 10 specifics. Tell me what I did.
 11 Q I know, but that's not the
 12 question. The question is --
 13 A No, I know.
 14 Q -- do you think you did
 15 anything wrong?
 16 A I don't think I did anything
 17 wrong, no. I do not. My clients loved
 18 me. My clients --
 19 Q Do you think that -- do you
 20 think that people get petitions written
 21 about them with 18 signatures saying
 22 they're a threat to their physical safety
 23 if they haven't done anything wrong?
 24 A I don't know why they wrote
 25 it. Tell me what I did to threaten their

Page 223

1 M.H. Capogrosso
 2 physical safety. Tell me what I did.
 3 Listen, I'm a black --
 4 Q Do you think --
 5 A I'm a black belted martial
 6 artist, I am. Can I handle myself.
 7 absolutely. Am I more fearful what I
 8 would do to somebody as to what they
 9 would do to me, absolutely. I walk away
 10 from confrontations all the time. I
 11 don't want to get into it with anybody, I
 12 don't. I've been studying martial arts a
 13 long time. I've been in a boxing ring a
 14 long time. I don't want to have a
 15 confrontation with anybody. I know how to
 16 know how to handle myself.
 17 That being said, if you feel
 18 intimidated or threatened by me, I can't
 19 help that. That's my persona. That's
 20 who I am.
 21 You tell me the specifics of
 22 what I did and I will resolve it.
 23 Q Well, there were a number of
 24 complaints that we've discussed and more
 25 that we will.

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1 M.H. Capogrosso
 2 A Sure.
 3 MR. THOMPSON: So.
 4 Ms. MacDonald, can I ask you to
 5 please mark this as Exhibit 7 if you
 6 haven't already.
 7 Q One more quick note.
 8 Mr. Capogrosso, you see how many of the
 9 signatures on here, such as Marisol
 10 Cervoni, supervisor as Roy Tucci, are
 11 people who have already signed complaints
 12 about your behavior; is that correct?
 13 A Well, they signed
 14 complaints, yes. Yes, I've seen the --
 15 you presented them, I've looked at the
 16 complaints and I've addressed them.
 17 Q And you feel that they were
 18 wrong?
 19 A I've already explained them
 20 to you. The first time I saw them and
 21 the first time I was given an
 22 opportunity -- you want to talk about
 23 Roy's? I didn't bump into him. Well, I
 24 already explained my position on each
 25 complaint --

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1 M.H. Capogrosso
 2 Q Okay.
 3 A -- that you've presented.
 4 Q And so you feel -- is it
 5 fair to say that you feel that these
 6 complaints that they were threatened were
 7 unfounded?
 8 A They're unfounded because
 9 there's no basis for them. Tell me what
 10 I did. They're absolutely unfounded.
 11 Tell me what I did. You don't have to
 12 like me. You know, good attorneys are
 13 not liked. I don't have to be liked to
 14 do my job. I have to do my job.
 15 People don't like me.
 16 Either they like me or they hate me. I
 17 know that, but I don't have to be liked.
 18 I was not shown --
 19 Q I think we have been --
 20 A Well, I have not been trying
 21 to endear myself to the clerks. I did
 22 not. I was there to do a job. The one
 23 time I tried doing it, talking to Cindy,
 24 George got upset.
 25 Q So let's move on to a new

Page 226

1 M.H. Capogrosso
 2 exhibit. I'm going to un-share my
 3 screen.
 4 MS. REPORTER: Did you guys
 5 take a lunch break yet before I came
 6 on or --
 7 MR. THOMPSON: Would you
 8 like one, Mr. Capogrosso?
 9 THE WITNESS: I don't need
 10 my brakes.
 11 MR. THOMPSON: Ms. MacDonald
 12 or Mr. Brodsky, you're also -- if you
 13 would like one, we can certainly take
 14 one. I'm perfectly happy to keep
 15 going.
 16 MR. VIDEOGRAPHER: You can
 17 proceed Counsel, please.
 18 MS. REPORTER: I mean I'd
 19 like at least every hour and-a-half a
 20 five minute break because you guys
 21 are going -- and this is my fourth
 22 deposition of the day, so --
 23 MR. THOMPSON: We can take
 24 a -- we can take a five minute break
 25 if you'd like.

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1 M.H. Capogrosso
 2 MS. REPORTER: Sure.
 3 MR. THOMPSON: Why don't we
 4 do that and reconvene at one 1:20.
 5 MR. VIDEOGRAPHER: Okay.
 6 The time is 1:15. We are off the
 7 record.
 8 (A short recess was taken.)
 9 MR. VIDEOGRAPHER: The time
 10 is 1:20. We are on the record.
 11 MR. THOMPSON: Actually, I'm
 12 having some problems here where it's
 13 not letting me share my screen all of
 14 a sudden.
 15 (Actually, can we get back on
 16 the record while I figure out what's
 17 wrong here? My apologies.
 18 MR. VIDEOGRAPHER: Sure.
 19 The time is 1:21. We are off the
 20 record.
 21 (A short recess was taken.)
 22 MR. VIDEOGRAPHER: The time
 23 is 1:22. We are on the record.
 24 Q Mr. Capogrosso, I'm showing
 25 you a document. Do you recognize this

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1 M.H. Capogrosso
 2 document?
 3 A Yes. I recognize the top,
 4 yes. Is this the one from Yaakov? Yes.
 5 absolutely, yes.
 6 Q And what is this document?
 7 A This is an affidavit from
 8 Yaakov Brody about the incident that
 9 occurred on December 22, 2011.
 10 Q And this is the document
 11 marked P-92 in your production; correct?
 12 A Absolutely.
 13 MR. THOMPSON: And,
 14 Ms. MacDonald, I'll ask that this
 15 document be marked Exhibit 8.
 16 (The above-referred-to
 17 statement was marked as Exhibit 8 for
 18 identification as of this date.)
 19 Q So who is Yaakov Brody?
 20 A He's an attorney that works
 21 down there.
 22 Q Did you have a good
 23 relationship with him?
 24 A I never talked to the man.
 25 I mean I never talked to him really. I

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1 M.H. Capogrosso
 2 knew he was down there, but I never
 3 really had any conversation with him
 4 until the morning of -- I thought it was
 5 December 22nd of December. He says
 6 December 21, 2011.
 7 Q And so you never talked to
 8 him before this?
 9 A Not really, no. He --
 10 Q Okay.
 11 A He used to like to schmooze
 12 with the clerks all the time. He was up
 13 there for a half an hour at a time
 14 talking to the clerks, not me.
 15 Q So Mr. Brody writes
 16 "Mr. Capogrosso walked in and went to
 17 reach for his briefcase which was lying
 18 on the floor next to me. Mr. Capogrosso
 19 then said excuse me so I could move over
 20 so that he could get to his briefcase.
 21 He already had plenty of time, but
 22 regardless I shifted my body so he would
 23 have even more room to reach for his
 24 belongings."
 25 Do you recall any of this?

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1 M.H. Capogrosso
 2 A Yeah. It's not the truth.
 3 I'll tell you what happened. I go in the
 4 morning in the attorney's room, which is
 5 about six feet long by about four feet
 6 wide. It's a very small area. I get a
 7 cup of coffee in the morning and the New
 8 York Post. I get my coffee. I put it
 9 under the bench -- under the bench with
 10 my briefcase because I don't want my
 11 coffee spilling on anybody's papers.
 12 That day Brody is there.
 13 He's right in front of my coffee. I say
 14 excuse me. may I please get me coffee?
 15 Excuse me, can I get my coffee? Brody
 16 tells me excuse yourself, go fuck
 17 yourself, you Jew hater anti-Semite. I
 18 said what?
 19 I get my coffee. I walk
 20 away. I come back -- I go in the
 21 courtroom, I argue a case. I come back,
 22 put my coffee down where it was again and
 23 Brody's right there, right -- right in
 24 front of the coffee between -- the
 25 coffee's under the bench. He's right

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1 M.H. Capogrosso
 2 where the bench is and he says to me
 3 again -- I say excuse me, can I get my
 4 coffee? He says excuse yourself, go fuck
 5 yourself you Jew hater anti-Semite.
 6 That's what I remember and
 7 that's what happened.
 8 Q And what happened after
 9 that?
 10 A Then after that he walked
 11 out about 20 feet away, he's looking in
 12 and Mr. Jeff Meyers came in to talk to me
 13 as to what happened.
 14 Q And then?
 15 A And then I threw a punch in
 16 the vicinity of a wall, not in the
 17 vicinity of anyone. I didn't hit the
 18 wall, I wasn't charged and I was not
 19 arrested. I was mad. The guy just told
 20 me to go fuck myself twice. I didn't hit
 21 the wall. I didn't hit Jeff Meyers.
 22 I threw a punch in the
 23 vicinity of a wall. I didn't hit the
 24 wall and I was not charged and I was not
 25 arrested and I was required to take an

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1 M.H. Capogrosso
 2 anger management course.
 3 Q And did anything happen
 4 after that?
 5 A That's it. Nobody took my
 6 affidavit. Nobody asked me my story.
 7 There's affidavit after affidavit after
 8 affidavit here from lawyers who said they
 9 were there, but the lawyer that was
 10 actually there, me, got no opportunity to
 11 explain what happened, nothing.
 12 But Yaakov Brody gets to --
 13 who created this incident, told me to go
 14 fuck myself twice, gets the opportunity
 15 to write an affidavit. He states at one
 16 point I'm going to hit you with my
 17 briefcase. I'm not the type of guy who's
 18 going to hit you with a briefcase. I'm
 19 not. If there's an incident and I got to
 20 defend myself I will, but I'm not going
 21 to hit you with my briefcase.
 22 A lying lawyer at the DMV
 23 who wanted me out, for what reason I
 24 don't know. I was making too much money
 25 in his presence. That's what I stated

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1 M.H. Capogrosso
 2 and that's what I'll hold to.
 3 Q So your testimony is that
 4 Mr. Brody just said fuck you, you Jew
 5 hater anti-Semite out of nowhere?
 6 A Yeah. I walked in in the
 7 morning as I always did. I get coffee at
 8 the deli. I get a paper at the deli. I
 9 like the Post. I take my coffee, before
 10 I go in the courtroom I put it under the
 11 bench. I do it the same way all the
 12 time.
 13 I was reaching for my
 14 coffee, for whatever reason he decided to
 15 come at me this morning. Do I think he
 16 was put up to it? I think so. I think
 17 Bushra Vahdat who had just come on maybe
 18 wanted me out, I don't know and this was
 19 her opportunity to get me out. So she
 20 created this incident, that's my opinion.
 21 I was blindsided. I can
 22 have an opinion though. But this is the
 23 first time I think I was blindsided.
 24 That's my opinion. Vahdat, Gelbstein
 25 wanted me out and maybe they put this

28 (Pages 230 - 233)

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1 M.H. Capogrosso
 2 attorney up to it because out of the blue
 3 he just happens to say this.
 4 My mind was --
 5 Q Why would --
 6 A You got to let me finish.
 7 My mind was someplace else. It was right
 8 around Christmas time. I'm not really
 9 thinking. I'm thinking about I got to
 10 buy Christmas presents and what I'm
 11 buying for who. That's where my mind was
 12 on that morning. But that's what
 13 happened.
 14 Q Why would Bushra Vahdat and
 15 Alan Gelbstein want you out?
 16 A Bushra Vahdat -- well, they
 17 had complaints against me from the
 18 clerical staff, right and they had to
 19 have a reason to have me removed and this
 20 would have been an excellent reason,
 21 right. They had all these complaints
 22 that they were filing against me. There
 23 was no sum and substance to any of them,
 24 right.
 25 But in order to get me

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1 M.H. Capogrosso
 2 removed they needed an incident like
 3 this, so they created one. They
 4 didn't -- they didn't have no -- they had
 5 no basis to grieve me. There was no
 6 grievance filed against me. They grieved
 7 in Emig Tieg (phonetic) in Manhattan
 8 North because they had a basis for that.
 9 but they had no basis to grieve me
 10 because there was no sum or substance to
 11 any of these complaints, otherwise they
 12 would have, so they created an incident.
 13 That's my opinion.
 14 And I was blindsided. My
 15 mind was someplace else, it was Christmas
 16 time and I took the bait. I did the
 17 right thing. I did throw a punch at a
 18 wall. I didn't hit the wall because I
 19 was upset. What makes me a Jew hater
 20 anti-Semite? What nerve does this
 21 attorney have to call me a Jew hater
 22 anti-Semite? I'm working down there 10
 23 years. There's not one complaint from a
 24 motorist or a client that I used an
 25 anti-Semitic remark or a racist remark.

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1 M.H. Capogrosso
 2 What right does this man
 3 have to call me an anti-Semite Jew hater?
 4 Q So why would he think that
 5 you're a Jew hater anti-Semite? Why
 6 would he say that out of nowhere?
 7 A Let me know. I'd like --
 8 why don't you ask him? Why don't you ask
 9 him? Ask this Mr. Yaakov Brody.
 10 Q Had you ever --
 11 A I'm making too much money in
 12 his presence? I don't know. I'm an
 13 Italian America down there. I'm
 14 surrounded by Jewish lawyers. Most of
 15 the lawyers down there are Jewish. Most
 16 of the judges are Jewish.
 17 Maybe I'm making too much
 18 money. I don't know. Maybe I saw what
 19 Judge Gelbstein was doing with the ticket
 20 brokers. I don't know. But this guy had
 21 it in for me --
 22 Q Had --
 23 A -- and I took the bait.
 24 Q Had you ever discussed Jews
 25 or Judaism with Mr. Brody before this?

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1 M.H. Capogrosso
 2 A Absolutely not. Listen. I
 3 was there 10 years, 10 years I was there.
 4 Look at the complaints against me. Not
 5 one client or motorist made a statement
 6 that I made an anti-Semitic or a racist
 7 remark, not one.
 8 Now I have to have this
 9 lawyer call me a Jew hater anti-Semite.
 10 For what reason?
 11 Q So had you had conversations
 12 with Jews -- about Jews or Judaism at all
 13 with anyone previous to this?
 14 A No. I don't -- no, no. I
 15 don't care who you are, what religion you
 16 are. I'm Catholic. I don't care what
 17 you want to be. You're Jewish, fine. Do
 18 whatever you like. God bless. I could
 19 care less.
 20 You look at the motorists
 21 and the clients that I represented.
 22 they're all nationalities, all races, all
 23 of them. Not one indicated I made an
 24 anti-Semitic or a racist remark and I'm
 25 dealing with thousands, almost 850

29 (Pages 234 - 237)

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1 M.H. Capogrosso
 2 clients I had on the docket. I'm dealing
 3 with hundreds of clients on a monthly
 4 basis. Not one made a statement that I
 5 made any type of statement, any type of
 6 racist or anti-Semitic statement, not
 7 one.
 8 I took this very personally
 9 and I had to go to an anger management
 10 course because I did take it personally.
 11 Q So Mr. Brody writes that
 12 "Mr. Capogrosso lashed out at me and said
 13 he was being nice by saying excuse me and
 14 next time he would simply hit me with his
 15 briefcase" and you said you never said
 16 that; correct?
 17 A I would never hit you with
 18 my briefcase. If I'm going to hit you,
 19 I'm going to hit you. If I'm going to --
 20 if I have to -- if it comes to the point
 21 where I've got to hit you, I'm going to
 22 hit you. All right.
 23 If I have to defend myself
 24 against a physical attack, a knife, a
 25 gun, I'm going to hit you or I'm going to

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1 M.H. Capogrosso
 2 get hit, but I'm not going to hit you
 3 with my briefcase. That's not something
 4 I would do.
 5 This guy, Yaakov Brody, I
 6 don't know what type of man he is, but
 7 I'm not going to hit you with my
 8 briefcase. That's an absolute lie. I am
 9 not the type of guy who's going to hit
 10 you with a briefcase.
 11 Q So he writes that you
 12 proceeded to tell him that the next time
 13 you see him you better get out of his
 14 way.
 15 A That's not true.
 16 Q Did you say that?
 17 A No, absolutely not. Get out
 18 of my way for what reason? We are both
 19 working in the same building. How is he
 20 going to get out of my way? We are both
 21 attorneys at the same location. How is
 22 he going to get out of my way?
 23 Q He writes that there were
 24 three other attorneys in the room. Do
 25 you remember there being anyone else in

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1 M.H. Capogrosso
 2 the room?
 3 A I remember -- let me think.
 4 The first time, no, it was just me and
 5 him.
 6 The second time I went back
 7 and I put my -- I went to the courtroom
 8 and I came back and I said this guy
 9 must -- I don't know. He was there in
 10 the same location. My coffee, I put my
 11 coffee back under the chair. He was
 12 exactly in the same exact location as the
 13 first time.
 14 At that time -- who was in
 15 there at that time? I think -- there was
 16 another attorney. It wasn't Rick Maher.
 17 that I know. He wasn't there. There was
 18 another lawyer there, but I forgot the
 19 guy's name. I forgot. There was one
 20 other lawyer there, but I forgot the
 21 guy's name. It wasn't Meyers, but there
 22 was another lawyer there.
 23 Q So he writes that you took a
 24 seat across from Mr. Brody and complained
 25 that you didn't -- that he didn't give

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1 M.H. Capogrosso
 2 you enough room. He continued to ignore
 3 you he says.
 4 Then he writes, quote,
 5 "Eager to show how angry he really was,
 6 he took his coffee cup which still had
 7 some coffee inside and threw it my
 8 direction toward the garbage can that was
 9 next to me."
 10 Did you throw the garbage --
 11 the coffee cup?
 12 A First of all, we are in a
 13 lawyers' room that's six feet by about
 14 four feet wide. There's bench on either
 15 side. All right. I'm allowed to go in
 16 the lawyers' room. Even after -- I'm
 17 allowed to go in. My briefcase was in
 18 there, number one. I wanted to make sure
 19 nobody touched my briefcase. I had my
 20 files in it.
 21 Number two, my coffee's
 22 still there in the lawyers' room because
 23 I can't bring it into a courtroom. So I
 24 get my coffee now. Now, I'm sitting
 25 there and he comes in and sits there next

30 (Pages 238 - 241)

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1 M.H. Capogrosso
 2 to the garbage can, this Brody. I finish
 3 my coffee cup. I said this guy is going
 4 to start in on me again. Now he's going
 5 to come at me for the third time. I
 6 finish my coffee and as I'm leaving, he's
 7 sitting right next to the coffee -- right
 8 next to the garbage can. I threw my
 9 empty cup, which I'm allowed to do, into
 10 a garbage can. I didn't throw it at him.
 11 I threw it into a garbage can and I
 12 walked out.
 13 And he came -- when I was in
 14 there first and then he comes back in for
 15 a third time and then he goes -- then
 16 what do you call it, Meyers comes in,
 17 into there and says what's going on, Jeff
 18 Meyers who was a lawyer. That's what
 19 happened that day.
 20 Q So Mr. Brody writes that "I
 21 complained to Mr. Capogrosso that this
 22 was not civilized behavior and I did
 23 nothing to warrant such hostility.
 24 Enraged, Mr. Capogrosso went on a rant on
 25 how I was a, quote, Jew fucking cunt, a

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1 M.H. Capogrosso
 2 phrase which he repeated about six or
 3 seven times."
 4 What's your memory of what
 5 happened here?
 6 A Well, I might have said
 7 that.
 8 MS. REPORTER: Wait, hold
 9 on. My machine just stopped writing.
 10 Let me read what I have and then pick
 11 up from there.
 12 (The requested portion was
 13 read back by the Court Reporter.)
 14 A Well, the man just told me
 15 to go fuck myself twice. I'm a Jew hater
 16 anti-Semite. Now out of the blue I'm
 17 making a statement like this, you Jew
 18 fucking cunt? First of all, he is a Jew.
 19 The word fucking, I might have used that
 20 and the C word, I'm not sure.
 21 But was he acting like a
 22 real man on that date provoking a fight
 23 when I say excuse me, can I get a cup of
 24 coffee?
 25 I mean I don't recall making

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1 M.H. Capogrosso
 2 the statement. I know I was mad. I was
 3 mad and I did take an anger management
 4 course and I was blindsided, but all I
 5 did was say excuse me can I get my
 6 coffee.
 7 And if you look at the
 8 affidavit from Tahir, it states that I
 9 said excuse me twice. That's all I have
 10 to say about that.
 11 Q Mr. Brody writes that after
 12 that you went on to say that the place
 13 was run by Jews. Did you say that?
 14 A I don't recall saying that,
 15 but all the --
 16 Q Did you --
 17 A There are Jewish -- Judge
 18 Gelbstein is Jewish. It's a true
 19 statement. It is a true statement. Most
 20 of the judges down there, it's a true
 21 statement. Bushra Vahdat is a Jew. Ida
 22 Traschen is a Jew. I am an Italian
 23 American.
 24 Is it a true statement.
 25 yeah. Did I say that? I don't recall

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1 M.H. Capogrosso
 2 saying it. But is it a true statement,
 3 yeah, most of the judges in the Brooklyn
 4 TVB were Jewish, yes. Most of the
 5 lawyers were Jewish.
 6 I'm trying to understand in
 7 my head why this guy is telling me to go
 8 fuck myself, I'm a Jew hater anti-Semite
 9 when I've been there since 2005 and you
 10 don't have a complaint or an allegation
 11 from a client that I ever acted in this
 12 manner or said anything to a client or
 13 motorist.
 14 What is making this guy say
 15 this to me I'm trying to think and I
 16 still can't figure it out, other than he
 17 was put up to it, other than he was put
 18 up to it and I took an anger management
 19 course because I did throw a punch at a
 20 wall and I should not have thrown -- have
 21 done that, but I -- what do you want me
 22 to do? I'm a human being.
 23 Q So I'm not sure if I was
 24 quite clear. Did you -- did you actually
 25 say that the place was run by Jews?

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1 M.H. Capogrosso
 2 A I don't recall saying that,
 3 but is that true that it is mostly Jewish
 4 judges, yes, that's a true statement. Do
 5 I remember saying it, no, I don't
 6 remember saying it. But is it true, yes,
 7 it is true.
 8 All my accusers in this
 9 case, Judge Gelbstein, Ida Traschen,
 10 Bushra Vahdat, Yaakov Brody who started
 11 this is Jewish, are Jewish. I'm an
 12 Italian American. That's a true
 13 statement.
 14 Q Do you think -- does it make
 15 a difference that they're Jewish or that
 16 you're Italian?
 17 A No. I don't care who you
 18 are. I treat everybody the same. I
 19 treat everyone respectfully. I treat
 20 everyone respectfully. Look at the --
 21 Q And do you --
 22 A Look at my clients, there's
 23 not one accusation from a client that I
 24 used -- and there's all different
 25 nationalities I'm dealing with down in

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1 M.H. Capogrosso
 2 Brooklyn TVB, Russian, Jewish, Italian,
 3 Arabic, Muslim, not one from a client or
 4 a motorist, that I used an anti-Semitic
 5 or racist remark.
 6 The only racist here is
 7 Judge Gelbstein who told me a spade is a
 8 spade.
 9 Q Does it make a difference
 10 that many of the people in leadership at
 11 the DMV are, in fact, Jewish?
 12 A No. I could care less. God
 13 bless, you got a job, God bless.
 14 Actually, the best judges were the Jewish
 15 judges. In a courtroom, Gelbstein gave
 16 you the best chance. Bonstein
 17 (phonetic). I mean not Gelbstein,
 18 Bonstein gave you a great chance to win.
 19 Chaune (phonetic) gave me a great
 20 chance. Tilman gave me a great chance to
 21 win. What do you call it?
 22 The best judges were the
 23 Jewish judges in the courtroom for me.
 24 Walters gave me good -- Walters gave me a
 25 terrible choice to win. Ross gave me a

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1 M.H. Capogrosso
 2 bad choice. Who else was there?
 3 Esposito, he gave me a -- he eventually
 4 got better, but at the start he was very
 5 tough.
 6 But the best judges at the
 7 start for me doing my job were Bonstein,
 8 Tilman and Chaune. They were the best.
 9 Abish (phonetic) was great in a courtroom
 10 for a lawyer in dealing with these cases.
 11 Q So, Mr. Capogrosso,
 12 yesterday at his deposition Judge
 13 Gelbstein testified that you called him
 14 to his face a beanie wearing Kike: is
 15 that true?
 16 A That's an absolute lie.
 17 That is an absolute lie. That judge
 18 should be taken off the bench for making
 19 a statement like that. That is an
 20 absolute lie. That is a judge who wrote
 21 that affirmation after I was removed from
 22 the Brooklyn TVB because of this incident
 23 in 2011 he wrote that affirmation. You
 24 don't see that -- you don't see that
 25 documented anyplace until after I was

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1 M.H. Capogrosso
 2 removed.
 3 That is an absolute lie by
 4 that judge. He doesn't indicate the
 5 circumstances for which I said it or does
 6 anybody corroborate it, anybody witnessed
 7 it. That is an absolute lie and that
 8 judge should be removed because he made
 9 that statement to get me kicked out and
 10 that is why I'm looking for punitive
 11 damages.
 12 That is a lying lawyer
 13 acting as a judge who should be taken off
 14 the bench.
 15 Q And why at this point did he
 16 want you kicked out?
 17 A I don't -- why did he
 18 want -- you saw all the affidavits
 19 written about me. He wanted me out. You
 20 saw all the clerks' affidavits. He
 21 wanted me out. I was -- maybe I was
 22 making too much. I don't know why. He
 23 wanted to keep things nice and quiet down
 24 there so he could get a piece of the
 25 action.

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1 M.H. Capogrosso
 2 I don't know why he wanted
 3 me out, but I never made that statement.
 4 Never made that statement to him.
 5 Q So Mr. Brody writes that
 6 when he protested to you how he could use
 7 the language about being Jewish that you
 8 stated "What do you care, just call me a
 9 fucking Italian ginny."
 10 A That should be Gini, but I
 11 never said. I don't recall saying that.
 12 Q You never said that?
 13 A No. I know I was upset. I
 14 walked in that morning and I was having a
 15 personal problem with some woman I was
 16 dating at the time and I'm thinking what
 17 present I have to buy her and my head was
 18 not there with buying this woman a
 19 present and next thing you know I get
 20 blindsided because I'm saying excuse me.
 21 can I get my coffee and he blindsided me.
 22 Q And is it safe to say so
 23 you -- let me withdraw that question.
 24 So, Mr. Capogrosso, you
 25 believe that Mr. Brody lied in this

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1 M.H. Capogrosso
 2 complaint; correct?
 3 A Absolutely. the whole thing,
 4 the whole thing. I pointed them out.
 5 I'm not hitting you with my briefcase. I
 6 am not going to hit you with my
 7 briefcase. I never heard of such
 8 nonsense. I am not the type of guy who's
 9 going to hit you with a briefcase. I
 10 never heard of that nonsense.
 11 There's no reason for me to
 12 act like this in the morning when I say
 13 excuse me to the man. I go from excuse
 14 me to go fuck -- I go from that, I say
 15 excuse me, I'm trying to be polite.
 16 Come on, a lying lawyer at
 17 the DMV wanted me out. I don't know why.
 18 I think Bushra Vahdat and Alan Gelbstein
 19 put him up to it. That's my opinion.
 20 Q Okay. So let's move on.
 21 MR. THOMPSON: This I
 22 believe was marked as Exhibit 8. If
 23 we didn't do that, let's please mark
 24 it that way.
 25 Let me close out of this and

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1 M.H. Capogrosso
 2 out of the Screen Share.
 3 (The above-referred-to
 4 statement was marked as Exhibit 9 for
 5 identification as of this date.)
 6 Q Mr. Capogrosso, can you see
 7 this document?
 8 A Yes.
 9 Q And this document is from
 10 your production marked P-250; correct?
 11 A Yeah. This is from Richard
 12 Maher, yes.
 13 Q And what is this document?
 14 A Well, that was an affidavit
 15 that another attorney got to write. I
 16 never got to write my affidavit as to
 17 what happened, who was not even in the
 18 room that day. Maher was not even in the
 19 room. I know Brody was in the room at
 20 the first one, the time he said excuse
 21 me, go fuck yourself.
 22 And then the second time
 23 there was another attorney, I forgot the
 24 guy's name, but it wasn't Maher. Maher
 25 was not even in the room. I don't think

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1 M.H. Capogrosso
 2 he was even there that day, but I'll go
 3 through it, what I remember.
 4 Q So who is Richard Maher
 5 before we get too far?
 6 A He's a lawyer down there
 7 that worked at the TVB.
 8 Q Did you have a good
 9 relationship with Mr. Maher?
 10 A I never talked to the guy
 11 that much.
 12 Q And for the transcript Maher
 13 is M-A-H-E-R; correct?
 14 A I don't know how he spells
 15 his name. I don't know.
 16 Q It's spelled that way on
 17 here.
 18 A Right. I don't know how he
 19 spells it.
 20 Q So is it correct to say that
 21 this statement corroborates Mr. Brody's
 22 account?
 23 A I don't know. I don't know.
 24 That's his version. I don't know if it
 25 corroborates it or not. I don't know.

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1 M.H. Capogrosso
 2 He wasn't in the room. They could be
 3 making up -- they could have corroborated
 4 the story after the fact.
 5 The man was not in the room.
 6 I know who was in the room. I was there.
 7 This man was not in the room.
 8 Q So it's your testimony that
 9 Mr. Maher made up what's in this
 10 statement?
 11 A Well, tell me exactly which
 12 portions. He was not in the room that
 13 day. I remember it very, very
 14 distinctly.
 15 Q Sure.
 16 A He was not in the room.
 17 When Brody came in and I said excuse me,
 18 me and him were the only ones there.
 19 When I came back again,
 20 there was another attorney there. I
 21 forgot the man's name. It wasn't this
 22 attorney. Maher was never anyplace to be
 23 seen.
 24 Q So first off I'll note he
 25 says that the lawyers' room can

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1 M.H. Capogrosso
 2 accommodate up to a dozen attorneys; is
 3 that right?
 4 A The lawyers' room is
 5 precisely I would say six to eight feet
 6 long, five feet wide. There are benches
 7 that are at least, what, a foot in width,
 8 so that leaves about three feet to walk,
 9 three feet between the benches. Eight
 10 feet, six to eight feet long, five feet
 11 wide, the benches are a foot, that's the
 12 dimensions.
 13 I don't think it could fit
 14 12. no. I don't believe so, no.
 15 Q Mr. Maher writes "When
 16 Mr. Capogrosso entered, he asked
 17 Mr. Brody to move so he could sit.
 18 Mr. Brody did his best to reasonably
 19 comply with this request. The bench
 20 contained the belongings of other
 21 attorneys and Brody in fact tried to make
 22 more room so that Capogrosso could sit."
 23 Then there's a parenthetical here.
 24 "Far from acknowledging
 25 Mr. Brody's attempt to show him courtesy,

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1 M.H. Capogrosso
 2 Capogrosso grumbled about Mr. Brody's
 3 lack of decorum and began to berate
 4 Brody."
 5 So that's basically the same
 6 version of events that Mr. Brody said;
 7 correct?
 8 A No, it's not. It's not what
 9 happened. I'm not looking to sit down.
 10 I'm looking to get my coffee. I have to
 11 go in the -- I'm looking to get my
 12 coffee. I'm not looking to sit down. I
 13 said excuse me, can I get my coffee.
 14 Those are the words I actually stated.
 15 I'm not looking to sit down.
 16 My coffee is already under the bench. My
 17 briefcase is already under the bench.
 18 I'm looking to get my coffee so I can
 19 have some coffee before I go into the
 20 courtroom to argue my cases. I'm not
 21 looking to sit down. It's not correct.
 22 Q And when he says that you
 23 began to berate Brody; is that correct?
 24 A No. I said excuse me very
 25 politely, can I get my coffee. He said

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1 M.H. Capogrosso
 2 excuse yourself, go fuck yourself you Jew
 3 hater anti-Semite, at which point I took
 4 my coffee and I walked away. I came
 5 back, I put my coffee under it. He -- I
 6 had some coffee. I put it back under the
 7 bench so I could go argue my case.
 8 I come back, he's standing
 9 in the same place again and tells me
 10 again excuse myself, go fuck myself.
 11 Q Mr. Maher writes "Capogrosso
 12 then began to inveigh against Brody in
 13 vituperative terms as his temper
 14 continued to rise beyond all reason given
 15 the fact that Brody was extending
 16 courtesy to him by now under duress."
 17 A That -- this is an absolute
 18 lying lawyer at the DV -- at the TVB
 19 again.
 20 Q So why would Mr. --
 21 A I don't --
 22 Q Why would Mr. Maher lie?
 23 A Let me finish. Okay.
 24 Finish your question. Go ahead.
 25 Q I'm sorry. Part of the

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1 M.H. Capogrosso
 2 problem is you speak and then you pause
 3 and then I think you're done and then I
 4 start talking.
 5 A What's the question?
 6 Q So why would Mr. Maher lie?
 7 A Ask Mr. Maher. I have no
 8 idea. This is not what happened. I'm
 9 telling you what happened. I'm not
 10 getting this angry over nothing. I'm not
 11 getting this angry if Brody didn't
 12 approach me and tell me to go fuck myself
 13 twice. I'm not getting angry like this
 14 and upset like this if the man didn't
 15 approach me and tell me to go fuck myself
 16 twice when all I said to the man was
 17 excuse me, can I get my coffee.
 18 Now write whatever you like,
 19 but no man's going to get angry like this
 20 unless he's told to go fuck himself
 21 twice.
 22 Q So you have no idea why
 23 Mr. Maher would write this?
 24 A I have no idea. Maybe
 25 they're friends. I don't know. I don't

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1 M.H. Capogrosso
 2 know.
 3 Q Do you have a suspicion?
 4 A No. I don't know. Maybe
 5 they're two Jewish American attorneys and
 6 I'm an Italian American attorney and
 7 they're ganging up on me. I don't know.
 8 You figure it out. You ask them. I
 9 don't know.
 10 Q Did you --
 11 A That's a fact. He --
 12 Q Did you think that
 13 Mr. Maher --
 14 A I don't know. Go ahead.
 15 Q Did you think Mr. Maher
 16 wanted you out?
 17 A I don't know if he did or
 18 not. I never talked to the man. I
 19 didn't like him. I didn't like the way
 20 he handled cases. Did I like the man.
 21 no. Did I dislike him, no, I really
 22 didn't care. He had a job to do, I had a
 23 job to do.
 24 I wasn't -- I wasn't
 25 required to like other attorneys. I was

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1 M.H. Capogrosso
 2 required to do a job. You know, I choose
 3 my friends very carefully. I get -- you
 4 know, I choose them very carefully. I
 5 don't have to like everybody in this
 6 world.
 7 Did I like his approach, no,
 8 but he had -- he had his right to do his
 9 job. I had a right to do my job.
 10 Q Mr. Maher --
 11 A I don't have to like you.
 12 Q Mr. Maher writes again that
 13 your remarks, quote, "became intensely
 14 personal, directed at Brody, his person
 15 and his culture, his ethnicity and his
 16 very humanity." Is that true?
 17 A He told me to go fuck myself
 18 twice. Did I call him a fucking Jew
 19 cunt? I probably called him a fucking
 20 something. I don't remember exactly the
 21 words I did, but if you're going to tell
 22 me to go fuck myself, I am going to
 23 respond, all right.
 24 Q So this --
 25 A If you tell me to go fuck

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1 M.H. Capogrosso
 2 myself twice, that I'm an anti-Semite Jew
 3 hater, that I'm making too much money
 4 it's my opinion in your presence, I'm
 5 going to respond. I'm going to respond.
 6 I think any normal man would respond.
 7 whether an attorney or not. Outside of a
 8 courtroom when it's not -- any normal man
 9 is going to respond to an accusation like
 10 that.
 11 So is this man lying, yeah.
 12 he's lying.
 13 Q So Mr. Maher writes, quote,
 14 "Nothing Brody did or said during
 15 Capogrosso's verbal attack was in any way
 16 provocative or confrontational."
 17 A Well, first of all --
 18 Q Do you see that?
 19 A Yeah. Maher wasn't in the
 20 room on the first instance. He wasn't
 21 there on the second incident either, so
 22 he doesn't know what Brody said to me.
 23 Brody told me excuse yourself, go fuck
 24 yourself, you're a Jew hater anti-Semite
 25 twice, not once, twice. The first time I

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1 M.H. Capogrosso
 2 walked away. The second time I said
 3 what's going on with this guy. He said
 4 it twice to me and I was never given an
 5 opportunity to write my affidavit.
 6 Q So Mr. Maher writes that
 7 Mr. Brody spoke up strongly, quote, "when
 8 Capogrosso referred to him as a fucking
 9 Jew cunt."
 10 So there's the language
 11 again. Does that refresh your memory at
 12 all?
 13 A Did I say something to
 14 Brody, yeah. Yeah, I did. I don't know
 15 if I called him a Jew cunt. Is he a Jew,
 16 yeah. Did I use the word fuck, I might
 17 have. Was he acting like a man at this
 18 point, no, not in my estimation.
 19 If you provoke a fight like
 20 that and you say this out of the blue,
 21 was he acting like a real man, no, he
 22 wasn't acting like a man.
 23 Did I use those words? I
 24 don't think I used the word -- I don't
 25 know what I said, but I probably said

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1 M.H. Capogrosso
 2 something, but I don't know exactly what
 3 I said, but I did say something. I was
 4 mad. The man got me --
 5 Q He said --
 6 A The man blindsided me, got
 7 me thrown out of the DMV, blindsided me.
 8 I was thrown out of the DMV the next day
 9 by Gelbstein telling me I'm not welcome
 10 here anymore. I was never given an
 11 opportunity to write an affidavit to say
 12 what I had to say, my version of the
 13 story, by anybody.
 14 Judge Gelbstein, Bushra
 15 Vahdat, Ida Traschen, never given an
 16 opportunity to write my affidavit, where
 17 every attorney got an opportunity to
 18 write an affidavit. I was thrown out. I
 19 had to take an anger management course
 20 that cost me \$10,000. So was I upset
 21 that day, yeah, I was upset.
 22 Q Mr. Maher writes that
 23 Michael Beer spoke up and said that you
 24 crossed the line of decency. Do you
 25 remember Michael Beer saying anything?

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1 M.H. Capogrosso
 2 A Michael Beer was the other
 3 attorney in the room the second time.
 4 The second time Beer was there. Now you
 5 refreshed it, yeah. Michael Beer was the
 6 other attorney. He wasn't there the
 7 first time. He was there the second
 8 time, that I remember, Beer. Beer was
 9 there.
 10 When Brody was standing in
 11 front of the coffee again and I said
 12 excuse me, can I get my coffee, so Beer
 13 was in the -- was in the room the second
 14 time that Brody did this to me.
 15 Q And Mr. Maher writes that
 16 you, quote, "expressed the belief that
 17 the DMV was in fact run by fucking Jew
 18 cunts;" is that correct?
 19 A I don't remember saying that
 20 exactly. I don't remember saying that.
 21 no. Is it run by Jewish judges and
 22 lawyers, yeah. Am I an Italian American,
 23 absolutely. Did Judge Gelbstein give me
 24 an opportunity to write my affidavit and
 25 response, no. Did Bushra Vahdat give me

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1 M.H. Capogrosso
 2 an opportunity, no. Did Ida Traschen,
 3 no. They accepted this all as truth,
 4 these affidavits, giving me no
 5 opportunity to respond.
 6 Now, most of the judges down
 7 there are Jewish. The best -- the best
 8 judges in the courtroom were Jewish, I'm
 9 not going to deny that, they were, but
 10 these Jewish judges gave me no
 11 opportunity to respond.
 12 Q So let's move on to the next
 13 exhibit.
 14 A Please.
 15 Q Mr. Capogrosso, can you see
 16 this exhibit?
 17 A Yes.
 18 Q And you can see this is from
 19 your production and marked P-96: correct?
 20 A Yes. This is a Sadiq Tahir,
 21 yes.
 22 Q Do you recognize this
 23 document?
 24 A Yes.
 25 Q And what is it?

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1 M.H. Capogrosso
 2 A It's an affidavit from
 3 Tahir, another attorney, who had the
 4 opportunity to write an affidavit and I
 5 didn't as to what happened.
 6 MR. THOMPSON: And.
 7 Ms. MacDonald, can we mark this as
 8 Exhibit 10.
 9 (The above-referred-to
 10 statement was marked as Exhibit 10
 11 for identification as of this date.)
 12 Q So, Mr. Capogrosso, who is
 13 Sadiq Tahir?
 14 A He's a lawyer at the
 15 Brooklyn TVB. We were friends at one
 16 point in time, really good friends. We
 17 used to go out drinking together.
 18 Q When was that?
 19 A Before this incident. We
 20 used to go out all the time. We used to
 21 hang out at the same clubs. We used to
 22 hang out. We both drank. We used to go
 23 out drinking in Brooklyn.
 24 Q Mr. Capogrosso, do you know
 25 what Mr. Tahir's current status is?

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1 M.H. Capogrosso
 2 A I think he's passed. I
 3 think he died.
 4 Q I heard that, too. You
 5 know, I don't --
 6 A I don't know.
 7 Q I heard people say that, but
 8 I don't know if it's actually true.
 9 A I don't know either, but we
 10 were friends at one point in time.
 11 Really -- I used to drive him -- I used
 12 to drive him home at night. He used to
 13 ask me for a ride home. We used to be
 14 really close. I went over to his
 15 apartment.
 16 This hurts me more than
 17 anything, this affidavit. We were
 18 really, really close me and him.
 19 Q So then if you were so
 20 close, why do you think he wrote this
 21 statement?
 22 A I don't know what happened.
 23 I don't know. I know that he tells me
 24 Mr. Capogrosso walked, and he's being
 25 truthful here, and said excuse me. I

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1 M.H. Capogrosso
 2 did. He says that and I did say that.
 3 Maybe he was in the room. I don't know.
 4 "He moved to the side to
 5 reach for his bag lying under the" -- "he
 6 then said again excuse me." I'm saying
 7 excuse me twice. Now Brody says why are
 8 you being rude, you have enough -- I said
 9 I didn't have enough room. If I
 10 didn't -- if I had room enough to get my
 11 coffee -- this -- why would I say excuse
 12 me?
 13 That's when Brody says
 14 excuse yourself, go fuck yourself. I'm a
 15 Jew hater anti-Semite.
 16 Q So up until this point when
 17 he talks about saying excuse me, is
 18 Mr. Tahir's account correct?
 19 A I don't know. What point?
 20 Mr. Capogrosso walked into the room. I
 21 did do that. I said excuse me. I did do
 22 that. I was looking for my coffee. Now,
 23 Brody didn't move away. I had to say
 24 excuse me twice. I had to say it twice.
 25 I have to be expelled from

1 M.H. Capogrosso
 2 the Brooklyn TVB because I'm asking an
 3 attorney back in December of 2011 excuse
 4 me, can I get my coffee. I have to be
 5 expelled and take an anger management
 6 course because this lawyer couldn't just
 7 move to the side and let me get my
 8 coffee. He had to call me -- tell me I'm
 9 a Jew hater, fuck you I'm a Jew hater and
 10 I'm the cause of this now.
 11 But go ahead, I'm listening.
 12 Q Mr. Tahir writes "Mr. Brody
 13 said you have enough room. Why are you
 14 so rude. Mr. Capogrosso got so upset
 15 that he started shouting against Jews.
 16 Mr. Beer who was also sitting in the room
 17 asked Mr. Capogrosso that it's enough,
 18 that you -- it's enough, you can't curse
 19 Jews." Is that correct?
 20 A Beer was in the room. Beer
 21 was in the room, that I remember. I
 22 remember -- said you had enough room -- I
 23 didn't have enough room. I said excuse
 24 me, can I get my coffee. He refused to
 25 move the first time and then he -- then

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1 M.H. Capogrosso
 2 he's telling me excuse yourself, go fuck
 3 yourself.
 4 Then I come back, Beer is
 5 there. I remember Beer. I'm not sure if
 6 Sadiq was there and -- Sadiq must have
 7 obviously been there because he does say
 8 the words excuse me.
 9 And he refused to be --
 10 he -- then he said it again to me, excuse
 11 yourself, go fuck yourself. At that time
 12 I got upset. At that point I got upset.
 13 He walked -- at that point I got upset.
 14 Yes, I did. I'm not going to deny it. I
 15 took an anger management course.
 16 Q So he writes that
 17 "Mr. Capogrosso said you can call me a
 18 fucking Italian Gini. Mr. Brody said
 19 that you're an anti-Semite and you don't
 20 belong in this place. Mr. Brody shouted
 21 stop it and in the meantime Ms. Daniel."
 22 I guess that means Danielle, "Calvo came
 23 into the room and tried to cool down the
 24 situation." Is this correct?
 25 A I know Beer was in the room.

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1 M.H. Capogrosso
 2 I don't remember what he was saying. I
 3 was upset at that point in time. Listen,
 4 I was upset. You know, I don't recall
 5 exactly what I said.
 6 Did Calvo come out? Calvo,
 7 if she came out she took everybody's
 8 affidavit, every lawyers' affidavit but
 9 mine. She took every lawyers' affidavit
 10 but mine as to what happened.
 11 Beer I do remember in the
 12 room and that's it. That's all I
 13 remember. That's what I remember.
 14 Q So is there anyone -- you
 15 know, of what we've looked at so far, is
 16 there anything that Mr. Tahir has written
 17 that is untrue?
 18 A Well, I don't know. I don't
 19 know. I'm not going to say that because
 20 I'll admit to the fact I said -- that I
 21 said excuse me, that's what I'll admit
 22 to. I don't know about the rest. I
 23 don't recall the rest. I do remember
 24 saying excuse me twice. I do -- I do
 25 recall -- I do recall being upset. I

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1 M.H. Capogrosso
 2 was.
 3 I do recall Beer being in
 4 the room, that's what I remember. I
 5 don't remember Calvo coming out, but
 6 maybe she did. I know Maher was not in
 7 the room, that I remember.
 8 Q So Mr. Tahir writes "A
 9 little later Mr. Meyers came in the room
 10 and" -- I can't actually quite read what
 11 he says.
 12 A I have to apologize --
 13 Meyers is asking me to apologize to
 14 Brody. Meyers is asking me to apologize
 15 to a guy that just told me to go fuck
 16 myself twice. That's what I have to do.
 17 Q And what happened then?
 18 A I got -- I got upset. I got
 19 to apologize to a guy that just told me
 20 to go fuck myself twice? Are you kidding
 21 me? I mean are you really kidding me?
 22 That's when I threw the punch at the
 23 wall. I didn't hit the wall. I wasn't
 24 charged. I wasn't arrested. That's when
 25 I really got -- he's asking me to

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1 M.H. Capogrosso
 2 apologize to a guy that just told me to
 3 go fuck myself twice.
 4 At that point Brody is
 5 standing outside the -- outside the room.
 6 He looks in and then he goes -- goes to
 7 Judge Gelbstein. I think that's what
 8 happened. I'm not sure.
 9 Q So Mr. Tahir writes that you
 10 said to Mr. Meyers that I'll send you to
 11 the hospital.
 12 A I never said that. I never
 13 would say that. There's no reason for me
 14 having -- being mad at Meyers. No reason
 15 for me. Meyers didn't do anything.
 16 Meyers just walked in the room. He's
 17 asking me to apologize which is just
 18 terrible because you know the truth
 19 doesn't matter here. You know, the truth
 20 doesn't matter as to what actually
 21 happened. He's asking me to apologize to
 22 a guy that just told me to go fuck myself
 23 twice.
 24 I never said I was going to
 25 put Meyers in the hospital, never. I

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1 M.H. Capogrosso
 2 have no beef with Jeff Meyers. I mean we
 3 weren't actually friends, but we did --
 4 he was a funny guy, Jeff Meyers. He's a
 5 funny guy to talk to, real funny guy. He
 6 makes you laugh.
 7 Q So --
 8 A He's a nice --
 9 Q So is --
 10 A He's a funny guy.
 11 Q So is Mr. --
 12 A And I've been over to his
 13 apartment. I mean we weren't friends.
 14 We weren't close, but I was to his
 15 apartment once. I did drive him home
 16 several times after work because he
 17 had -- his car was in the repair shop. I
 18 did drive the man home.
 19 But were we close, no, but
 20 he was a funny guy to talk to.
 21 Q So is Mr. Tahir lying here?
 22 A What portion? Exactly what
 23 portion?
 24 Q When he says that you
 25 threatened to put Mr. Meyers in the

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1 M.H. Capogrosso
 2 hospital?
 3 A Absolutely. I wouldn't
 4 threaten. I don't believe in
 5 threatening. If you're going to do
 6 something, just do it. I don't threaten.
 7 I would never threaten anybody like that.
 8 First of all, I could get arrested for
 9 that and you don't threaten.
 10 I mean if I have to defend
 11 myself in this instance I would just do
 12 it, but I'm not going to threaten you
 13 with that. I don't threaten. I don't
 14 believe in that. If you have to defend
 15 yourself, you defend yourself, but you
 16 don't threaten.
 17 Q So why would Mr. Tahir lie?
 18 A I don't know. I don't know
 19 if that's a lie. I don't remember -- I
 20 don't remember saying that, absolutely
 21 not. I don't know why he lied. Ask the
 22 man.
 23 Q Well, I can't. I think he
 24 passed away.
 25 A Yeah. I think he did. I

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1 M.H. Capogrosso
 2 don't remember saying I would put
 3 Meyers -- there's no reason to have a
 4 beef with Meyers, none. Brody, yeah. I
 5 have no reason to have an argument with
 6 Meyers.
 7 Over asking excuse me, at
 8 Christmas time, can I please get my
 9 coffee, this had to escalate to this.
 10 Q Did Mr. Tahir want you gone
 11 from the TVB?
 12 A I don't know. I mean we
 13 were friends at one point, but, you know,
 14 I -- you know, I was making money down
 15 there and, you know, this is a very
 16 competitive business and you lose friends
 17 over money. When everybody is, you know,
 18 is chasing the same nickel, you lose
 19 friends. There's only so many tickets
 20 and only so much money to be made, you
 21 know. And after a while if people aren't
 22 making enough money and they see other
 23 people making money, they get jealous and
 24 attorneys, that it's, that's the game
 25 down there.

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1 M.H. Capogrosso
 2 You know, people come down
 3 with cash in their hands, paying you 200,
 4 150, 100, \$50 on a ticket. And they see
 5 those transactions, people get jealous.
 6 So do other attorneys want other
 7 attorneys out, absolutely. It's a very
 8 competitive business, it was all cash and
 9 there's only so many tickets out there.
 10 So maybe he wanted me out.
 11 Maybe he wasn't making enough. I don't
 12 know.
 13 Q And he --
 14 A I'm listening.
 15 Q Lastly Mr. Tahir writes
 16 "Mr. Capogrosso went out of the room and
 17 started hitting the wall and steel
 18 guards." Is that true?
 19 A No. I don't recall doing
 20 that. I do not recall doing that. I
 21 remember I threw a punch at a wall in the
 22 lawyers' room because the man just told
 23 me to go fuck myself, but, no, I didn't.
 24 I don't remember hitting a wall in the
 25 DMV. I do not.

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1 M.H. Capogrosso
 2 First of all, if I hit a
 3 steel guard I would have broke my hand.
 4 Q So is it your testimony that
 5 you did not hit a wall that day, December
 6 21, 2011?
 7 A I don't recall, no.
 8 Q Did you ever hit a wall or a
 9 steel guard at the DMV?
 10 A No. Now, if I -- no, no. I
 11 was never accused of it by Judge
 12 Gelbstein. Judge Gelbstein never told
 13 me. If you tell me once, it would never
 14 happen twice. You only have to tell me
 15 once. You don't have to tell me twice.
 16 If I did something wrong, you tell me
 17 once, you never have to tell me twice.
 18 Q So you never punched a wall
 19 or any other object --
 20 A Not that I recall.
 21 Q -- at DMV?
 22 A No.
 23 Q Okay.
 24 A Not that I recall, no. Like
 25 I said, if it happened, you tell me once.

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1 M.H. Capogrosso
 2 it never happens twice.
 3 Q So let's move on to a new
 4 document.
 5 A I do not recall.
 6 Q I'm sorry, Mr. Capogrosso, I
 7 didn't quite catch that.
 8 A I said no, I do not recall.
 9 Q Mr. Capogrosso, can you see
 10 this document?
 11 A Yeah. Jeff Meyers. I used
 12 to drive him home every afternoon.
 13 Q And this is a document from
 14 your production Bates numbered P-248:
 15 correct?
 16 A Yeah.
 17 Q And do you recognize this
 18 document?
 19 A Yeah. It's Jeff. Jeff's a
 20 funny guy.
 21 Q And what is this document?
 22 A It's his affidavit. Like I
 23 said, everybody got a chance to write an
 24 affidavit but me as to what happened.
 25 everybody.

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1 M.H. Capogrosso
 2 MR. THOMPSON: So,
 3 Ms. MacDonald, can I --
 4 A I never got a chance.
 5 Q I'm sorry. I missed what
 6 you said there. Mr. Capogrosso.
 7 A I never got a chance to
 8 write my affidavit as to what happened.
 9 never got a chance and I was the one
 10 there.
 11 MR. THOMPSON: Ms.
 12 MacDonald, let's mark this as Exhibit
 13 11.
 14 (The above-referred-to
 15 statement was marked as Exhibit 11
 16 for identification as of this date.)
 17 Q And so here again Mr. Meyers
 18 writes that he overheard a loud commotion
 19 which he was told resulted in a tirade of
 20 anti-Semitic slurs and that he later
 21 implored Mr. Capogrosso to apologize.
 22 Did he, in fact, ask you to
 23 apologize?
 24 A Yes, he did.
 25 Q He writes that your "conduct

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1 M.H. Capogrosso
 2 the rest of the day was one of abrasive
 3 incoherent loud mutterings in which he
 4 smashed his fist against concrete walls
 5 and steel beams that are situated outside
 6 the DMV hearing rooms, coupled with more
 7 anti-Semitic comments. He kept saying
 8 everyone here wants to fight me."
 9 Does that refresh your
 10 recollection at all?
 11 A Yeah. That didn't happen.
 12 It didn't refresh me because I never said
 13 that. I was upset and I was mad. I
 14 didn't hit any concrete walls or steel
 15 beams. I don't recall making that
 16 statement, no, I do not.
 17 Was I upset, absolutely I
 18 was upset. I just got blindsided by this
 19 guy Yaakov Brody telling me to go fuck
 20 myself twice, that I'm a Jew hater. For
 21 what reason? Anti-Semite, for what
 22 reason?
 23 Q So Mr. Meyers is lying here;
 24 correct?
 25 A I never smashed my hand

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1 M.H. Capogrosso
 2 against the wall. no. I think I would
 3 have broke -- broke my hand if I hit it
 4 or hit anything. A steel column or a
 5 brick wall, I would have broke my hand
 6 so, yes.
 7 Q And why would Mr. Meyers
 8 want to lie?
 9 A I don't know. I never said
 10 it. Maybe he's a -- I don't know why.
 11 You ask him. Ask him.
 12 Q Did --
 13 A I know what I said. I was
 14 very upset. But did I hit a brick
 15 concrete wall, no.
 16 Q Did Mr. Meyers want you
 17 gone?
 18 A I don't know. Ask Meyers.
 19 We were all very competitive, believe me.
 20 This was a competitive environment. It's
 21 an all cash environment. Money gets
 22 transferred -- transferred on the floor
 23 all day between lawyers and motorists.
 24 There's only so many motorists coming in.
 25 If I'm not there, Meyers

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1 M.H. Capogrosso
 2 makes more money. If Meyers is not
 3 there, I make more money. That's just
 4 how the game is played.
 5 Q Later he writes that he was
 6 sitting in the lawyers room across from
 7 you, not engaging in any conversation
 8 with him when he, Mr. Capogrosso, quote,
 9 "suddenly became enraged and lunged at me
 10 with his fists with great speed and
 11 smacked his fists against his other hand
 12 in a martial arts form coming within
 13 12 inches of my face." Is that true?
 14 A No. I threw a punch at a
 15 wall.
 16 Q What happened?
 17 A I told you several times, I
 18 threw a punch at a wall in the vicinity
 19 of no one. I didn't hit the wall, I
 20 wasn't charged with it and I was not
 21 arrested. I was mad, I'm sorry, I was.
 22 Throwing a punch in the air,
 23 not in the vicinity of anyone I don't
 24 think is any -- I wasn't charged and I
 25 wasn't arrested. I'm sorry, I did not.

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1 M.H. Capogrosso
 2 Q Mr. Meyers --
 3 A I did not come anywhere
 4 close to Jeff Meyers. If I did, I would
 5 have been charged or arrested.
 6 Q Mr. Meyers writes that you
 7 said, quote, "I could put you in the
 8 hospital with one just punch" -- "with
 9 just one punch." Is that true, did you
 10 say that?
 11 A Well, did I say it? No, no.
 12 Now do I have that ability, absolutely.
 13 Do I have the ability, yes. Did I say
 14 it, no. I don't threaten people. Do I
 15 have that ability, yes. I've been
 16 training in martial arts my whole life.
 17 I've been in and out of boxing rings my
 18 whole life. Can I -- do I have the
 19 ability, yes. Did I say it, no. I don't
 20 threaten.
 21 Now, did he feel intimidated
 22 by me, did he feel that, yeah, maybe he
 23 did, I don't know. But did I say that --
 24 Q Which martial arts -- I'm
 25 sorry. I didn't mean to cut you off.

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1 M.H. Capogrosso
 2 Did you have anything more
 3 you wanted to say there?
 4 A No.
 5 Q Which martial art do you
 6 train in?
 7 A Kempo, K-E-M-P-O.
 8 Q And you have a black belt in
 9 it; is that true?
 10 A Yes. A very high level
 11 black belt.
 12 Q What level?
 13 A I'm a high level black belt.
 14 Q But can you tell me what
 15 level?
 16 A I don't recall. I'm a high
 17 level black belt.
 18 Q You don't recall what level
 19 of black belt you are?
 20 A At a certain point, you
 21 forget.
 22 Q Do you have an estimate?
 23 A No. I'm a high level black
 24 belt. I've been training a long time.
 25 Q Do you have any training in

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1 M.H. Capogrosso
 2 other martial arts?
 3 A Before Kempo I trained in
 4 Mas Oyama and then in a boxing ring
 5 and -- which I still was going to up to a
 6 couple of years ago, which I had to stop.
 7 but that's it.
 8 Q So Mr. Meyers writes "He
 9 kept repeating the phrase you people, you
 10 people. He later told me he envisioned
 11 all of us Jews and didn't mean to single
 12 me out during his assault on me." Is
 13 this true?
 14 A You people? Now you're not
 15 allowed to say you people. Isn't freedom
 16 of expression? I don't recall saying
 17 that. I mean he's offended because I say
 18 you people? What's wrong with saying you
 19 people? What is wrong with saying you
 20 people? Maybe I was referring to lawyers
 21 in general down there.
 22 I've had lawyer after lawyer
 23 make affidavit against me. Now I'm
 24 making an anti-Semitic remark by saying
 25 you people? Maybe he's a little

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1 M.H. Capogrosso
 2 oversensitive. I never used the word --
 3 I said you people, so what. I don't
 4 recall saying it, but maybe I was talking
 5 about the lawyers down there.
 6 Q So Mr. Meyers writes "He
 7 later told me that he envisioned all of
 8 us Jews and didn't mean to single me out
 9 during his assault on me." Did you say
 10 that?
 11 A I envisioned all of us and
 12 didn't mean to -- all of us, did I say
 13 the word Jew? I said all of us. Maybe
 14 all your lawyers who don't want me. All
 15 you lawyers, maybe that's what I said.
 16 Did I use the word Jew, no.
 17 He has the Jew in parenthesis. Go to all
 18 the --
 19 Q Okay.
 20 A Go to all the complaints
 21 against me from a client or a motorist.
 22 is there any Jewish person that states I
 23 made an anti-Semitic remark, no. I mean
 24 come on.
 25 Q So, Mr. Capogrosso, four of

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1 M.H. Capogrosso
 2 your colleagues, your fellow attorneys --
 3 A They're not my colleagues.
 4 They're not my colleagues. Don't use
 5 that word with me. They are not my
 6 colleagues.
 7 Q Why are they not your
 8 colleagues?
 9 A Because they don't -- they
 10 don't write false defamatory statements
 11 against somebody and give them no
 12 opportunity to respond. They don't say
 13 excuse me, go fuck yourself you Jew
 14 hater. That's not a colleague. That's
 15 not a colleague or -- I could go into
 16 millions of things.
 17 They're not colleagues.
 18 They were attorneys I worked with down in
 19 the Brooklyn TVB. I had to work
 20 alongside. I didn't work with them.
 21 They were there working. I was there
 22 working. I was not their colleague. We
 23 did not work together. We worked
 24 separately and independently.
 25 Q All right. Four of your

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1 M.H. Capogrosso
 2 fellow attorneys at the Brooklyn TVB --
 3 A Yes.
 4 Q -- and they all remember the
 5 incident the same way. Is that a
 6 coincidence?
 7 A I don't know. You ask them.
 8 I don't think they remembered it all the
 9 same day. There are discrepancies here.
 10 many discrepancies. I pointed them out
 11 to you. One -- one affidavit says I'm
 12 attempting to sit down. I wasn't
 13 attempting to sit down.
 14 Q So if everything that is in
 15 these affidavits were true and I know you
 16 don't think it is, but if it were and you
 17 had, in fact, said these things, thrown a
 18 cup of coffee at Mr. Brody --
 19 A Well, that's not true. I
 20 threw a cup of coffee in the garbage can.
 21 Get the facts straight.
 22 Q I understand that you -- I
 23 understand that you don't agree with the
 24 facts, but I'm asking for the
 25 hypothetical if these facts were true.

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1 M.H. Capogrosso
 2 would they justify excluding you from the
 3 TVB?
 4 A They're not true. They're
 5 not true, so there's no reason to exclude
 6 me. They're not true. I told you what
 7 happened that day. I was blindsided by
 8 Brody. I have a right to get mad. Told
 9 me to go excuse myself and go fuck myself
 10 twice. I have a right to get mad. It's
 11 a normal --
 12 Q I understand that you
 13 disagree with the fact --
 14 A I was blindsided and that's
 15 all that happened that day. that's it.
 16 Now, this is a competitive
 17 business, I told you that. These lawyers
 18 wanted me out. I was making money and
 19 every dollar I make is a dollar that they
 20 don't make. So the more attorneys they
 21 can get out of there. the better it is.
 22 Q Let me rephrase the
 23 question. If someone. not you, had used
 24 the phrase fucking Jew cunt, thrown a cup
 25 of coffee at somebody and tried to punch.

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1 M.H. Capogrosso
 2 you know, the air in front of somebody
 3 else's face and told them that they'd put
 4 them in the hospital. would that person
 5 be someone who could be excluded from the
 6 TVB?
 7 A No. I don't know. It
 8 didn't happen. I don't know. First of
 9 all, it didn't happen. I didn't throw
 10 a -- I told you the facts, so I'm not
 11 going to -- I'm not going to discuss a
 12 hypothetical, what could have or could
 13 not happen. Nobody wants to take my
 14 affidavit as to what happened here.
 15 nobody.
 16 Q Okay. Let's --
 17 A Everybody, you know,
 18 everybody here could have looked at the
 19 videotape if I'm punching a wall or
 20 punching a steel beam. Judge Gelbstein
 21 had the ability to pull the videotape and
 22 look at the videotape as to what happened
 23 and what happened that day and he didn't
 24 do it.
 25 He had the ability to take

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1 M.H. Capogrosso
 2 my affidavit as to what happened and he
 3 didn't do it, he didn't. If I'm punching
 4 a wall or a steel beam, let Gelbstein
 5 pull the videotape and he didn't do it.
 6 Q So let's move on to another
 7 exhibit here.
 8 A And I don't like
 9 hypotheticals that don't exist because
 10 the facts that you're presenting aren't
 11 true. I threw a cup. an empty cup in a
 12 coffee -- in a garage can that Brody was
 13 sitting next to. I didn't throw a punch
 14 in the vicinity of any attorney. I
 15 didn't hit any steel beams.
 16 If you had the opportunity
 17 to look at the videotape, the judge would
 18 have saw that and he didn't do it and he
 19 had an opportunity to do it.
 20 Q So, Mr. Capogrosso, can you
 21 see the document that I just put up?
 22 A Yes.
 23 Q And this document is Bates
 24 stamped DMV-0000224; correct?
 25 A Yes.

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1 M.H. Capogrosso
 2 Q Do you recognize this
 3 document?
 4 A Bushra Vahdat's affidavit.
 5 MR. THOMPSON: Ms.
 6 MacDonald, can I ask you to mark this
 7 as Exhibit 12?
 8 (The above-referred-to
 9 statement was marked as Exhibit 12
 10 for identification as of this date.)
 11 Q We'll just discuss this
 12 document and then we'll take a bit of a
 13 break because I know we are all a little
 14 tired.
 15 A I'm not tired. I'm not
 16 tired at all.
 17 Q So what is this document?
 18 A I think it's an affidavit
 19 from Bushra Vahdat.
 20 Q And Ms. Vahdat writes that
 21 when she was first appointed, the
 22 clerical staff approached her and handed
 23 her an affidavit signed by all of them
 24 requesting help dealing with an attorney.
 25 Do you think she's talking

43 (Pages 290 - 293)

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1 M.H. Capogrosso
 2 about the petition that we looked at
 3 earlier?
 4 A Yeah. The petition that has
 5 no facts attached to it, just a whole
 6 bunch of signatures --
 7 Q And that --
 8 A -- which Bushra Vahdat never
 9 presented to me so I could address the
 10 issues and resolve them and tell me
 11 exactly what I did so I could resolve it
 12 and that's a judge.
 13 Q So she says that, in fact,
 14 she did talk with you and in the next
 15 paragraph she says and I'll highlight
 16 this --
 17 A What paragraph? Go ahead.
 18 Go ahead.
 19 Q "At that time I met with
 20 Mr. Capogrosso in Senior ALJ Gelbstein's
 21 office and we jointly had a conversation
 22 with Mr. Capogrosso."
 23 Do you remember that
 24 conversation?
 25 A No, no. She was there.

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1 M.H. Capogrosso
 2 Gelbstein told me you're not welcome here
 3 anymore after this incident on December
 4 22, which I was given no opportunity to
 5 respond to, none, none.
 6 She was there the next day
 7 with Gelbstein when I arrived. There was
 8 a police officer in the room, that I
 9 remember. Gelbstein is sitting down.
 10 She's sitting next to him. Gelbstein
 11 tells me you're not welcome here anymore.
 12 I said don't I have an opportunity to
 13 explain. I've been here since 2005. I
 14 don't have an opportunity -- I've been
 15 here since 2005 serving the Brooklyn
 16 community. I don't get an opportunity to
 17 explain what happened yesterday by way of
 18 affidavit, 2005.
 19 Gelbstein tells me --
 20 Q So I believe --
 21 A You have to let me finish.
 22 You're not welcome here
 23 anymore. You have to leave.
 24 Q So I believe she's referring
 25 to an earlier conversation that happened

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1 M.H. Capogrosso
 2 sometime before that. Do you remember
 3 having a conversation with Ms. Vahdat and
 4 Mr. Gelbstein prior to the time you were
 5 expelled in 2011?
 6 A No, no.
 7 Q Okay.
 8 A The only time I remember
 9 speaking to her was that time after this
 10 event.
 11 Q So she writes "We explained
 12 to him that his behavior was not
 13 professional and that if he did not stop
 14 his foul language and his threats we
 15 would have to take action and bar him
 16 from the TVB building. At that point he
 17 promised us that he would conduct himself
 18 according to the rules of conduct for
 19 attorneys."
 20 Did that conversation ever
 21 happen --
 22 A Well, what foul language?
 23 Q -- do you recall?
 24 A Tell me exactly what foul
 25 language I used and what threats? Was it

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1 M.H. Capogrosso
 2 the incident of December 22?
 3 Q Well, I --
 4 A I'd like to know.
 5 Q Well, Mr. Capogrosso --
 6 A What foul language did I
 7 use?
 8 Q -- the question was do you
 9 recall this conversation?
 10 A I recall -- the only
 11 conversation I remember with her was
 12 after this event.
 13 Q So this conversation that
 14 I've -- that we've highlighted here, you
 15 don't recall that ever happening; is that
 16 correct?
 17 A The only conversation I
 18 recall with this woman was the
 19 conversation I had with Gelbstein and her
 20 in the office after this.
 21 Q Okay.
 22 A Now, if you go back to the
 23 following paragraph, "He abused the
 24 clerks and followed a clerk in his car."
 25 which is a complete lie being made by a

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1 M.H. Capogrosso
 2 judge, I followed a clerk in a car. Look
 3 at what George Hon wrote. If she's
 4 taking about George Hon, that's a
 5 complete lie.
 6 Q So, Mr. Capogrosso, the
 7 question is, it's just a narrow question.
 8 yes or no, do you recall the highlighted
 9 conversation in which you met with
 10 Ms. Vahdat and --
 11 A No. I've answered --
 12 Q -- Mr. Capogrosso?
 13 A I've answered that question.
 14 I recall one conversation --
 15 Q Okay.
 16 A -- with this woman.
 17 Q All right. So she says that
 18 you were warned that if there were
 19 further incidents that you would be
 20 expelled; is that true?
 21 A I remember one conversation
 22 with this woman with Gelbstein after the
 23 event of December 22, that's it.
 24 Q Were you -- had you ever
 25 previously been warned that if there were

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1 M.H. Capogrosso
 2 any further incidents you would be
 3 expelled?
 4 A Tell me what incidents
 5 you're talking about. Give me an
 6 opportunity to respond. So no, I do not.
 7 I don't know what incident she's talking
 8 about. The one with Brody where he told
 9 me to go fuck myself twice?
 10 Q So Mr. Capogrosso --
 11 A What incident is she talking
 12 about?
 13 Q Mr. Capogrosso, I'm not
 14 asking about an incident. I'm just
 15 asking for a narrow question. Were you
 16 warned that prior to December 21 that you
 17 might be expelled from the TVB if there
 18 were an incident?
 19 A What -- I had one
 20 conversation with this woman that I
 21 recall on December 22 when Gelbstein told
 22 me I had to leave because Brody
 23 approached me in the lawyers' room.
 24 Q Let me --
 25 A That's it.

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1 M.H. Capogrosso
 2 Q Let me rephrase the question
 3 and see if --
 4 A I'll say it again. I had one
 5 conversation with this woman, that's it.
 6 Q So did --
 7 A There's nothing in writing.
 8 Q Mr. Capogrosso --
 9 A That's all I had.
 10 Q -- let me see if I can
 11 clarify the question for you. Did anyone
 12 warn you prior to December 21, 2011 that
 13 you could be banned from the TVB for
 14 misbehavior?
 15 A No. I received no
 16 affidavits, no warnings, nothing to
 17 respond to, nothing. I wish you had. I
 18 wish you had given me these affidavits
 19 and given me an opportunity to respond
 20 and I would have responded, corrected it,
 21 apologized for it if I did something
 22 wrong. Tell me what I did and I would
 23 have addressed it, but I was given no
 24 opportunity.
 25 Q So Ms. Vahdat writes "On

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1 M.H. Capogrosso
 2 Wednesday, December 21, I received an
 3 e-mail from Danielle Calvo. She was very
 4 concerned that she had to go into the
 5 attorney room and stop Mr. Capogrosso
 6 from shouting religious obscenities.
 7 Mr. Capogrosso had thrown a coffee cup at
 8 another attorney, Mr. Brody, in the
 9 attorney room and after Mr. Brody had
 10 objected, Mr. Capogrosso started to
 11 scream and shout obscenities at everyone
 12 around him. A crowd had gathered and the
 13 entire courthouse was disturbed."
 14 And then she writes "An hour
 15 later I received another e-mail from
 16 Ms. Calvo stating that Mr. Capogrosso had
 17 tried punching one of the other
 18 attorneys, Mr. Mayer, but had stopped
 19 about an inch away from his face.
 20 Mr. Mayer was very upset and left the
 21 area in fear."
 22 Is that referring to the
 23 same incidents that we've been talking
 24 about in the previous four statements?
 25 A Yes, but Danielle Calvo

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1 M.H. Capogrosso
 2 never gave the full story. She only
 3 gives half the story. She doesn't give
 4 my version of what happened that day.
 5 Q So --
 6 A She only gives half a story.
 7 Danielle Calvo, half a story. What
 8 precipitated that event? First of all, I
 9 didn't punch Jeff Meyers or throw a punch
 10 in his vicinity. I did not, number one.
 11 Number two -- you turned it
 12 away. You turned away from it. She
 13 doesn't say what Brody said to me that
 14 day. Why is that left out? Why? Why is
 15 Calvo not asking me what happened? Like
 16 that all happened for no reason?
 17 She doesn't understand that
 18 Brody told me to go excuse myself, go
 19 fuck myself twice. She doesn't put that
 20 down.
 21 Q So you'll see here at the
 22 bottom of page 1 -- that's not a good
 23 highlight. I can do a better highlight
 24 than that.
 25 A You know, this is not a --

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1 M.H. Capogrosso
 2 Q Ms. Vahdat writes that
 3 "After taking everyone's statement
 4 Mr. Gelbstein and I met with
 5 Mr. Capogrosso. We asked him for his
 6 version of the prior day's events and he
 7 admitted to shouting the religious
 8 obscenities and trying to punch, as he
 9 put it, the air in front of Mr. Mayer's
 10 face. He was not remorseful and claimed
 11 that he needs to punch the walls in our
 12 office to let out steam. I also observed
 13 that his knuckles were severely bruised."
 14 So what --
 15 A All right. What do you
 16 want? What's the question? What's the
 17 question?
 18 Q My question is what do you
 19 recall from this meeting?
 20 A This meeting what I
 21 recall -- first of all, Gelbstein told me
 22 you're not welcome here. I was given no
 23 opportunity to respond by way of written
 24 affidavit as to what happened. I did not
 25 shout religious obscenities. Again, I

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1 M.H. Capogrosso
 2 was mad and I was upset. I don't recall
 3 what I said.
 4 I did not go anywhere near
 5 Meyers, nowhere near Meyers. I was given
 6 no opportunity to respond. I threw an
 7 empty coffee cup --
 8 Q Was she --
 9 A Let me finish. I threw an
 10 empty coffee cup --
 11 Q Sure.
 12 A -- not at Brody. I threw it
 13 in a can, in a can that's in the lawyers'
 14 room where I'm allowed to do that. I'm
 15 allowed to throw an empty coffee cup in a
 16 can in a lawyers' room. I'm allowed to.
 17 She doesn't write down what
 18 Brody said to me, that I'm a Jew hater
 19 anti-Semite go fuck yourself twice.
 20 My hands are bruised. I've
 21 been going to martial arts all my entire
 22 life. My hands are bruised. Sometimes I
 23 get a black eye. It happens. I accept
 24 the reality of that. It's not because I
 25 hit a wall at the DMV. Because I go to a

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1 M.H. Capogrosso
 2 boxing gym and a martial arts gym that it
 3 happens. That's when I --
 4 Q So, Mr. Capogrosso, she --
 5 you said you weren't able to put in your
 6 version of events, but she writes that
 7 she asked you for -- we asked him for his
 8 version of the prior day's events and he
 9 admitted shouting religious obscenities
 10 and trying to punch at and that you were
 11 not remorseful and claims that you needed
 12 to punch the walls in the office.
 13 So you were able to verbally
 14 give your version of events; weren't you?
 15 A No, I wasn't. First of all,
 16 it's a lie. First of all, it's a lie.
 17 And what she's stating here is -- you
 18 have to move this over -- up a little
 19 bit, down or up.
 20 Q Sure.
 21 A That I -- this is an
 22 absolute lie from a judge that I needed
 23 to punch a wall in the office to let off
 24 steam.
 25 I have to look at it. It's

46 (Pages 302 - 305)

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1 M.H. Capogrosso
 2 still being blocked. I can't see it.
 3 Q You want to go further up?
 4 What are you looking for?
 5 A It's blocking it. Further
 6 up. Further up. Further up. Whatever
 7 this -- just further up.
 8 Q There's nothing further up.
 9 A Well then further down.
 10 This is the second lie this
 11 woman is stating, that if I don't punch a
 12 wall to let off steam I'm going to hit
 13 somebody. That he needs to punch the
 14 walls in our facility, that's the most
 15 ridiculous statement that a lawyer would
 16 ever make to a judge. That's a lying
 17 lawyer acting as an administrative law
 18 judge. I don't know the worst criminal
 19 in the world that's going to make that
 20 statement.
 21 Did I use an obscenity when
 22 Brody told me to go fuck myself. I
 23 probably did. I don't recall. Did I
 24 throw a punch, I admitted to throw a
 25 punch, not at Meyers, at a wall. I

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1 M.H. Capogrosso
 2 didn't hit the wall, I wasn't charged and
 3 I wasn't arrested.
 4 All right. Are my hands
 5 bruised, yes. I told you the reasons
 6 why.
 7 Q So --
 8 A But was I given an
 9 opportunity to write a written affidavit,
 10 no, never, as to what happened.
 11 Q So, Mr. Capogrosso, I didn't
 12 ask you about a written affidavit. I
 13 asked you if you were able to verbally
 14 say what your perspective was and it
 15 sounds like you were; correct?
 16 A No, I was not. Gelbstein
 17 called me in the room. I was not. I'm
 18 telling you these facts are not true.
 19 Gelbstein called me in the room in the
 20 presence of a police officer and -- and
 21 told me you're not welcome here anymore.
 22 That's what I remember. They accepted no
 23 affidavit on my behalf as to what
 24 happened, none.
 25 So Brody's allowed to walk

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1 M.H. Capogrosso
 2 into an attorneys' room in the morning.
 3 tell a lawyer to go fuck himself, that
 4 he's a Jew hater, anti-Semite and that's
 5 allowed, that's acceptable.
 6 Q So, Mr. Capogrosso, let me
 7 ask you, isn't this basically the same
 8 thing that happened when you were
 9 expelled from the TVB in 2015, there was
 10 an incident with other -- with someone
 11 else, you dispute the version of events,
 12 there was an allegation of violence and
 13 then you're escorted out after TVB
 14 leadership is --
 15 A Well, tell me --
 16 Q -- called?
 17 A Well, tell me what I did.
 18 Well, tell me what exactly I did on
 19 May 11. Tell me exactly what I did
 20 wrong. Now you can accuse me and -- tell
 21 me. I turned around and look at a
 22 security guard. I'll tell you what
 23 happened on May 11. He's grumbling and
 24 mumbling, shaking his head, crosses over
 25 two security barriers, gets within three

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1 M.H. Capogrosso
 2 inches of my face, ducks his head and
 3 obscures his hand and I put my hand up
 4 and I say back up, back up. That's what
 5 happened on May 11.
 6 It has nothing to do with
 7 this incident. This is a security guard
 8 who stole money from a client looking for
 9 me and I reported it and then started to
 10 harass and was getting away with it
 11 because Judge Gelbstein allowed his
 12 harassment and I told you all the
 13 harassment that was going on, giving me
 14 the sign of the cross, a spear hand,
 15 hitting me from behind.
 16 I put my hand up, back up,
 17 back up. It's absolutely not the same.
 18 Q All right.
 19 A I got blindsided again by
 20 this -- that's it. Go ahead.
 21 MR. THOMPSON: So why don't
 22 we take a 15 minute break, come back
 23 at around 2:45. Is that okay with
 24 everybody?
 25 THE WITNESS: I don't need a

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1 M.H. Capogrosso
 2 break, but if people need a break.
 3 take a break.
 4 MR. VIDEOGRAPHER: All
 5 right. The time is 2:33. We are off
 6 the record.
 7 (A short recess was taken.)
 8 MR. VIDEOGRAPHER: The time
 9 is 2:48. We are on the record.
 10 Q So, Mr. Capogrosso, I've put
 11 up an exhibit here. Do you recognize
 12 this document?
 13 A Yes.
 14 Q What is this document?
 15 A Well, after the events with
 16 Yaakov Brody in 2011, Gelbstein told me,
 17 you know, you're not welcome here
 18 anymore. I hired a lawyer, he
 19 communicated with the DMV and the
 20 Attorney General's office and he
 21 represented me in an Article 78
 22 proceeding.
 23 Q Okay. And you see this
 24 document is Bates stamped DMV-0000226;
 25 correct?

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1 M.H. Capogrosso
 2 A Yes.
 3 Q And so this is a document
 4 that was filed -- sent on your behalf by
 5 your lawyer; correct?
 6 A Yes, at that time, Chris
 7 McDonough.
 8 MR. THOMPSON: All right.
 9 Can you mark this as Exhibit 13?
 10 (The above-referred-to
 11 letter was marked as Exhibit 13 for
 12 identification as of this date.)
 13 Q And is it safe to say that
 14 this letter features your version of
 15 events?
 16 A Well, as I told them to my
 17 lawyer.
 18 Q And I want to go down to a
 19 portion here at the bottom of the first
 20 page, Mr. McDonough writes "One of the
 21 managers of the center, Danielle, heard
 22 the exchange, again Mr. Brody was yelling
 23 at the cup" -- at the top of his lungs,
 24 and came into the room. In front of
 25 Mr. Capogrosso she stated now's our

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1 M.H. Capogrosso
 2 chance to get rid of him, referring to
 3 Mr. Capogrosso."
 4 Can you tell me what's meant
 5 by this?
 6 A I don't know what's meant.
 7 That's what she said. That's what she
 8 said. It's exactly what she said, now's
 9 our opportunity to get rid of him.
 10 Q So --
 11 A Her clerks didn't like me.
 12 You saw the affidavits written by her
 13 clerks with no facts supporting anything
 14 I said or did and she stated that, now's
 15 our chance to get rid of him and I took
 16 the bait. I took the bait.
 17 Q The Danielle mentioned here,
 18 is that Danielle Calvo?
 19 A Yes.
 20 Q And so in your
 21 interrogatories you mentioned an incident
 22 when Ms. Calvo said now's our chance to
 23 get rid of him. Is this the incident you
 24 were referring to?
 25 A Yeah, yes.

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1 M.H. Capogrosso
 2 Q So let me ask you, when
 3 we -- before the break when we were
 4 talking about the incident with
 5 Mr. Brody, why didn't you mention
 6 Ms. Calvo coming in and saying that?
 7 A When I said during the
 8 incident with Mr. Brody? Because at --
 9 at that -- you know, today is 2020. I
 10 talked to this lawyer when, 2011, 2012,
 11 eight years ago and eight years ago I
 12 remember her saying it. Today, 2020, I
 13 remember exactly what Brody said,
 14 exactly.
 15 So do I remember what she
 16 said in 2012, no, but do I remember what
 17 I stated to this lawyer, that's what I
 18 said. If that's what I said, yes.
 19 Q So sitting here today, do
 20 you contend that Ms. Calvo said these
 21 words?
 22 A Yes, I do. I said them in
 23 2012, what was it, January, a month after
 24 this happened, yes, absolutely. I said
 25 that a month, one month after this

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1 M.H. Capogrosso
 2 happened. It is now 2020, eight years.
 3 Q But sitting here today, you
 4 don't remember the circumstances in which
 5 she said that; is that correct?
 6 A Listen, I remember what -- I
 7 told you what happened that day. I said
 8 excuse me, can I get my coffee. Was I
 9 upset, yes. Was I -- was my voice loud,
 10 yes. Did she come --
 11 Q And why would she --
 12 A Did she come in, she
 13 probably did. Now that I'm looking at
 14 this, yeah, she probably, she came in. I
 15 said this --
 16 Q Why would she want to --
 17 A -- in 2012. I already told
 18 you that. Didn't you have all these
 19 affidavits you're showing me that her
 20 clerks didn't like me, didn't you show me
 21 all these affidavits?
 22 For what reason I don't
 23 know, other than the other attorneys were
 24 giving them money for Christmas, cash for
 25 Christmas, buying them breakfast in the

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1 M.H. Capogrosso
 2 morning, talking, you know, schmoozing
 3 with them for 20 minutes at the DMV.
 4 Talking.
 5 I was there to do a job,
 6 that's it. I don't know why they didn't
 7 like me, but the clerks didn't like me.
 8 I understood. Maybe I wasn't giving her
 9 money. Maybe the other attorneys were
 10 paying her. There's been allegations in
 11 the Brooklyn, in the TVB and I showed you
 12 those allegations, clerks getting paid
 13 often.
 14 I know the other attorneys
 15 there were giving these clerks money in
 16 cash for Christmas and the holidays, I
 17 know it. They were asking me how much
 18 they should give them. I know that
 19 because the other attorneys were asking
 20 me and I said I don't give them anything.
 21 I know other attorneys were
 22 buying them meals in the morning and
 23 buying them lunch. I didn't do it. I
 24 know that for a fact. Maybe that's why.
 25 I know I complained about

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1 M.H. Capogrosso
 2 Tanya Rabinovich to the District
 3 Attorney's office and she was removed
 4 after that complaint and I know maybe
 5 they liked Tanya because she was doing
 6 business at the Brooklyn TVB with the
 7 clerks and maybe they were getting paid
 8 by her, I don't know, but those are my
 9 reasons.
 10 Q So you'll see,
 11 Mr. Capogrosso, I'm highlighting a
 12 paragraph about halfway down page 2 where
 13 your lawyer writes "Two weeks later
 14 Mr. Capogrosso contacted Judge Vahdat."
 15 Vahdat it says, "and asked her to explain
 16 her determination. She advised that if
 17 Mr. Capogrosso was good and stayed quiet,
 18 she'd reconsider her determination three
 19 months later and at that time determine
 20 if he could go back into other Department
 21 of Motor Vehicle adjudication centers.
 22 but not Brooklyn South."
 23 Do you recall that
 24 conversation?
 25 A I might have called. I

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1 M.H. Capogrosso
 2 don't know. I was calling everybody
 3 after I got expelled. Everybody I was
 4 making phone calls to. After this
 5 incident where I was given --
 6 Q Did --
 7 A You have to let me finish.
 8 Q Sure.
 9 A After this incident I was
 10 given no opportunity to file an affidavit
 11 on my behalf and I was not allowed back
 12 in the Brooklyn TVB and I had all these
 13 clients whose money I was holding.
 14 Brooklyn clients who I was not showing up
 15 for cases on, that I was calling
 16 everybody to try to get some explanation
 17 of this.
 18 And I probably got through
 19 to her and if that's what she said,
 20 that's what she said. But that I had to
 21 work my way back in, what does that mean
 22 work my way back in? I have to be good
 23 and stay quiet? I don't understand what
 24 that means. Are you suppressing my
 25 freedom of expression? I'm not allowed

49 (Pages 314 - 317)

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1 M.H. Capogrosso
 2 to talk as a lawyer? What do I have to
 3 do, stay quiet?
 4 Q So --
 5 A I don't know what that
 6 means --
 7 Q So do you --
 8 A -- stay quiet.
 9 Q Mr. Capogrosso, sitting here
 10 today, do you recall this conversation?
 11 A If I said that to my
 12 attorney in 2012, then that's a true
 13 statement. It's a true statement.
 14 Q Understood. Mr. Capogrosso,
 15 but the question was sitting here today,
 16 do you recall this conversation with
 17 Ms. Vahdat?
 18 A Today do I remember it? Let
 19 me think. I did try to make a lot of
 20 phone calls. I did make phone calls
 21 right after this happened. Do I recall
 22 making this exact conversation, I don't
 23 remember. I don't remember saying that
 24 exact conversation, but I remember if I
 25 said it to him at that time that that was

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1 M.H. Capogrosso
 2 the truth.
 3 Q Okay.
 4 A I had a big client case at
 5 that point. I had clients calling me,
 6 asking me where are you, what's going on.
 7 So was I trying to reach out to people.
 8 yes, I was, absolutely.
 9 MR. THOMPSON: So let's mark
 10 this as Exhibit 13 if we haven't
 11 already and I suspect you already
 12 did.
 13 Q And let's -- a couple of
 14 other quick questions. So you filed an
 15 Article 78 lawsuit; is that correct?
 16 A My attorney did on my
 17 behalf, Chris McDonough at that point.
 18 Q And how did the lawsuit
 19 proceed?
 20 A We went down to court, went
 21 before a judge. Judge Gelbstein was there
 22 and I was given the opportunity to go to
 23 a hearing a year from now, a year from
 24 the date -- a year, one year the judge
 25 said. We'll hear the case in a year she

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1 M.H. Capogrosso
 2 told me or you agree to take an anger
 3 management course.
 4 Well, I had a lot of
 5 clients. I had -- I forgot what that
 6 letter said, but it was a lot of clients.
 7 I had people calling me where are you,
 8 where are you. where are you, why aren't
 9 you showing up. I had clients calling me
 10 left and right. I felt an obligation to
 11 these clients because that's who I am.
 12 If a guy gives me money to do a job, I
 13 feel an obligation to do that job. I
 14 feel a very strong obligation to do it
 15 and to show up. I show up.
 16 And I said all right, if I
 17 have to wait a year in order for my case
 18 to be heard and that was a bad decision.
 19 I should have adjudicated this right at
 20 the start because Chris McDonough told me
 21 listen, if you go back down there, you
 22 sneeze the wrong way, they're going to
 23 throw you out. That's what he told me.
 24 Chris told me that and he's a good
 25 lawyer. He told me the truth. He said

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1 M.H. Capogrosso
 2 if you sneeze the wrong way, they're
 3 going to throw you out again. I said
 4 Chris, I got a ton of clients here and I
 5 feel an obligation.
 6 So I took the course rather
 7 than wait a year to get a hearing on the
 8 matter and I should have waited. I
 9 should have waited it out and I should
 10 have adjudicated this back then and I
 11 didn't do it.
 12 Q So what were the terms of
 13 the agreement that resolved the case?
 14 A I don't know. There were no
 15 terms. I was told to take an anger
 16 management course, that's it. I was told
 17 to take an anger management course.
 18 that's all I -- that's all Chris told me
 19 to do.
 20 Q Were you told that any
 21 violent or aggressive behavior would
 22 result in your removal from the TVB?
 23 A I was given a letter, two
 24 days before I was supposed to -- allowed
 25 to go back in, a letter that was mailed

50 (Pages 318 - 321)

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1 M.H. Capogrosso
 2 to my attorney two days before I was to
 3 go. I agreed to take an anger management
 4 course, that's all I agreed to, that's
 5 it. I signed no other stipulation. I
 6 agreed to nothing.
 7 I know what the rules are
 8 and how to act as a lawyer. I know that.
 9 Q Did --
 10 A But I didn't sign nothing.
 11 I agreed to take an anger management
 12 course and that's what I did. That's
 13 what I told the judge.
 14 Now, your office threw
 15 something at me after the fact. After
 16 this agreement that we reached your
 17 office puts all these conditions, which I
 18 adhered to anyway, but it was after the
 19 fact, after I already agreed only to take
 20 an anger management course.
 21 So go ahead.
 22 Q And what was the Attorney
 23 General's office's role in that lawsuit?
 24 A I assume they represented
 25 the DMV.

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1 M.H. Capogrosso
 2 Q Just for the litigation or
 3 for anything else?
 4 A I don't know. Chris would
 5 know that better than me. my attorney on
 6 the Article 78.
 7 Q I'm going to bring up an
 8 exhibit and, Mr. Capogrosso, can you see
 9 the exhibit here?
 10 A Yes.
 11 Q And this is marked in the
 12 defendants' production DMV-0000205;
 13 correct?
 14 A Yeah.
 15 Q And do you recognize this
 16 document?
 17 A No, I don't. I have
 18 probably seen it, but I got to see the
 19 whole thing. Can you scroll down? I've
 20 seen this.
 21 Q Sure.
 22 A Can you scroll down, please?
 23 Go ahead. Now can you go up, please?
 24 This is from who, Assistant
 25 Attorney General?

Page 324

1 M.H. Capogrosso
 2 Q It's from Serwat Farooq.
 3 A Fine. I didn't sign this.
 4 but fine. That was something that --
 5 Q So do you recognize --
 6 A Yeah. I do recognize it.
 7 It's a letter from --
 8 Q Do you recognize it?
 9 A It's a letter from Chris
 10 McDonough. Yeah, Chris is my lawyer.
 11 Jackie was the lady that worked under
 12 him.
 13 I do remember -- I do
 14 recognize this. This is a letter from --
 15 I don't know if I remember seeing this
 16 letter. I don't remember. I don't know.
 17 I know I had to take an anger management
 18 course. That's all I remember.
 19 I don't think I was ever
 20 shown this letter. Did I --
 21 Q Did you --
 22 A What's the marking on this?
 23 Q I'm not sure. This came
 24 from our production.
 25 A Then I don't -- I don't

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1 M.H. Capogrosso
 2 remember seeing this. I remember seeing
 3 that one letter that was -- that had the
 4 second half of this down. I only saw
 5 this second half on the letter that was
 6 sent to me, please be advised --
 7 Q Okay.
 8 A That's the portion I saw
 9 where it says please be advised. That's
 10 the letter I saw. I never saw this top
 11 portion of it. I saw this second half
 12 portion of it from please be advised down
 13 and that portion of it was sent to me in
 14 a letter with your letterhead on it
 15 without these first four paragraphs --
 16 without these first three paragraphs and
 17 it was sent to me two days before I was
 18 to go back in. That's what I remember.
 19 Q So you don't recognize this
 20 letter here?
 21 A I recognize the last two
 22 paragraphs where it says please be
 23 advised. That's what was sent to me.
 24 That's what I recognize.
 25 Q Okay.

51 (Pages 322 - 325)

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1 M.H. Capogrosso
 2 A I don't remember the top
 3 portion of it.
 4 MR. THOMPSON: Ms.
 5 MacDonald, we are skipping around a
 6 little bit on the exhibits as we get
 7 later in the day. So this is Exhibit
 8 16 in what we sent to Veritext, but
 9 please mark it down as the next
 10 exhibit, which I think is Exhibit 14,
 11 is that right?
 12 MS. REPORTER: I have not
 13 been keeping track because usually I
 14 write the exhibits down. If you want
 15 to just give me a minute.
 16 MR. THOMPSON: We can mark
 17 this as Exhibit 16 and we'll just
 18 have a couple of exhibits with a gap.
 19 (The above-referred-to
 20 letter was marked as Exhibit 16 for
 21 identification as of this date.)
 22 A Like I said, I only remember
 23 seeing the bottom half of that letter,
 24 please be advised, that's what was sent
 25 to me. That was sent to me two -- it was

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1 M.H. Capogrosso
 2 sent to me by your office two days before
 3 I was to go back to work, two days.
 4 Q So, Mr. Capogrosso, I'm
 5 showing you another document. Do you
 6 recognize this?
 7 A Yes, John McCann.
 8 Q And this is from your
 9 production Bates stamped P-28: correct?
 10 A Yes.
 11 Q What document is this?
 12 A That's from the anger
 13 management doctor I had to go to, anger
 14 management course.
 15 MR. THOMPSON: And so can we
 16 mark this down, Ms. MacDonald, as
 17 Exhibit 17.
 18 (The above-referred-to
 19 report was marked as Exhibit 17 for
 20 identification as of this date.)
 21 Q So, Mr. Capogrosso, what did
 22 the anger management course consist of?
 23 A I showed up at this man's
 24 office. It was in the basement of his
 25 house. There was couches, about 10 to 12

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1 M.H. Capogrosso
 2 guys all sitting there, all looking
 3 angry. I talked to a few of them. They
 4 all had problems at work or with their
 5 girlfriends or with their wives.
 6 I got called into his
 7 office. I sat down with him. He gave me
 8 a book to read about I over E.
 9 intelligence over emotion. He kept
 10 telling me intelligence over emotion. I
 11 went back there week after week. He kept
 12 telling me intelligence over emotion, to
 13 read a chapter in the book every week. I
 14 did that.
 15 He told me, you know, I felt
 16 bad -- he told me he felt bad for me. He
 17 told me I was wrongfully accused, he felt
 18 bad for me and he said I completed the
 19 course.
 20 Q Do you feel like you got
 21 anything out of the course?
 22 A I over E. I'll always
 23 remember I over E, intelligence over
 24 emotion. I mean it's a little easier
 25 said than done. You know, I'm an

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1 M.H. Capogrosso
 2 emotional guy. It's a little easier said
 3 than done, you know.
 4 I over E is what he kept
 5 telling me, I over E, so I try to think
 6 before I act he told me. I said well,
 7 it's easier said than done. When a guy
 8 tells you go excuse yourself, go fuck
 9 yourself twice, you know, you get upset
 10 and that I'm a Jew hater. For what
 11 reason I'm a Jew hater, I don't know.
 12 so --
 13 Q Sir, do you think --
 14 A Go ahead.
 15 Q Do you think you benefited
 16 from the course at all?
 17 A Absolutely. I went -- I
 18 went to the Philippines. I had some -- I
 19 took a break, I went to the Philippines
 20 and I came back and I went back to work.
 21 Q And --
 22 A After I took the course I
 23 went to the Philippines and I had some
 24 fun and I came back.
 25 Q And did taking the course

52 (Pages 326 - 329)

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1 M.H. Capogrosso
 2 help you get along with co-workers at the
 3 TVB?
 4 A Well, it made me more
 5 suspicious of everybody. I hate to say
 6 that, but it did. I was never a
 7 suspicious person. You know, I pretty
 8 much -- you know, but you have to be
 9 suspicious of everything you say and
 10 everything you do. You have to look at
 11 every word.
 12 I was never like that. I
 13 was very, you know, outgoing and, you got
 14 to be careful everything you say and
 15 everything you do, who's taking it the
 16 wrong way, who am I insulting, who's
 17 fearful of my presence.
 18 I mean, you know, so then I
 19 got fearful of everything I said or do.
 20 Every time I walk into a courthouse I got
 21 to look around like I'm in church, but it
 22 is what it is. A clerk, if I look at a
 23 clerk, I'm smirking at clerk. What the
 24 hell is smirking at a clerk?
 25 So now I'm fearful of

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1 M.H. Capogrosso
 2 everything I do when I walk in a
 3 courtroom, absolutely. You got to watch
 4 every word you say. It's like you're
 5 walking into church in the morning and
 6 that's the way I act now when I go into a
 7 courtroom. I don't talk to anybody. I
 8 just do my business and that's it. I'm
 9 very circumspect. I listen to every word
 10 I say and I make sure it's not construed
 11 in the wrong way, that's it.
 12 Q All right. Let's close out
 13 of this and I'm going to bring up another
 14 document here.
 15 MR. THOMPSON: And,
 16 Ms. MacDonald, in case I didn't say
 17 it already, let's have that previous
 18 document marked Exhibit 16 (sic).
 19 Q Mr. Capogrosso, do you
 20 recognize this document?
 21 A This is the document I
 22 reviewed, this document that was sent to
 23 me. This document was sent to me.
 24 That's the document.
 25 Q Okay. So what is this

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1 M.H. Capogrosso
 2 document?
 3 A That I took the anger
 4 management course, which I did. I'll be
 5 allowed to come back June 27. It's seven
 6 days, I said two days, it's seven days
 7 before I was -- that I get this document.
 8 On June 20 I get this document, seven
 9 days before I was supposed to go back in.
 10 Q And --
 11 A I already agreed just to
 12 take an anger management course. You
 13 want to throw all these other conditions,
 14 that's fine because I adhered to all of
 15 them, I did adhere to all of them, but I
 16 said I'm going to -- I'm not going to
 17 dispute it at this point because I'll --
 18 you know, I'm not because I'm going back
 19 to work in seven days, but I adhered to
 20 all of it anyway.
 21 But did I sign off on this
 22 document, I never signed off to this
 23 document.
 24 Q And just for the record,
 25 Mr. Capogrosso, this document was marked

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1 M.H. Capogrosso
 2 P-143 in your production; correct?
 3 A Yes.
 4 MR. THOMPSON: And,
 5 Ms. MacDonald, let me ask you to
 6 please mark this as Exhibit 19.
 7 (The above-referred-to
 8 letter was marked as Exhibit 19 for
 9 identification as of this date.)
 10 Q So, Mr. Capogrosso, I'll --
 11 you said that this is not something you
 12 agreed to; correct?
 13 A I didn't sign it, the
 14 written stipulation. It was thrown at
 15 me, thrown at me, mailed to me on June
 16 20, 2012. I think I received it -- maybe
 17 it was dated -- I think I only received
 18 it two days before I was to go back in,
 19 two days and it's the first time I saw
 20 it. I agreed to take an anger management
 21 course, which is what I did.
 22 I never saw this document,
 23 no, until two days before I could go
 24 back. Now, did I adhere to everything,
 25 yes. Did I see it, no.

53 (Pages 330 - 333)

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1 M.H. Capogrosso
 2 Q So, Mr. Capogrosso, you see
 3 where it says "Please be advised that if
 4 and when Mr. Capogrosso appears at a TVB
 5 office, he must strictly adhere to the
 6 standards of conduct required of
 7 attorneys appearing before State courts?
 8 Threatening conduct by Mr. Capogrosso,
 9 verbal threats of physical violence and
 10 verbal abuse, including the use of ethnic
 11 slurs, will not be tolerated." Do you
 12 see that?
 13 A Yes.
 14 Q And you read that prior to
 15 going back: correct?
 16 A And I adhered to all of it,
 17 all of it.
 18 Q And you see the passage that
 19 says "DMV reserves all rights to respond
 20 to future misconduct including, if
 21 warranted, by immediately and permanently
 22 barring Mr. Capogrosso from appearing on
 23 behalf of DMV licensees at TVB offices:"
 24 correct?
 25 A Well, you can say whatever

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1 M.H. Capogrosso
 2 you like. You can say whatever you like.
 3 Did I sign off on that statement, no.
 4 No, I did not sign.
 5 Q Did you sign off on --
 6 A I signed off on going to --
 7 Q Did you sign off --
 8 A I signed off on going to
 9 anger management, that it's. I agreed to
 10 take an anger management course. that's
 11 it, not all these conditions. I agreed
 12 to take an anger management course,
 13 that's all I agreed to do.
 14 You threw this at me. Your
 15 office threw this at me. I received this
 16 two days before I was to go back.
 17 After --
 18 Q Mr. Capogrosso --
 19 A Let me finish. After the
 20 expense of \$10,000 and an anger
 21 management course. It cost me 10 grand.
 22 After that expense, you throw this at me
 23 two days before.
 24 If you were going to put all
 25 these conditions, you should have told me

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1 M.H. Capogrosso
 2 up front and maybe I would have --
 3 Q Mr. Capogrosso, I'll
 4 represent to you that these conditions
 5 were included in the letter to your
 6 lawyer that we previously discussed at
 7 Exhibit 16.
 8 A The only time I saw that,
 9 that was on -- that letter is dated June
 10 20. That letter is dated June 20 and
 11 that's the letter I received.
 12 Q And I'll represent to you
 13 that the previous letter was dated May
 14 15, 2012, which was sent to your lawyer.
 15 A The letter I received was
 16 dated June 20. I was told to take an
 17 anger management course. Now, I adhered
 18 to all those conditions, but I agreed to
 19 take an anger management course, that's
 20 it.
 21 Q So hold on one second while
 22 I bring up another document.
 23 Mr. Capogrosso, can you see
 24 this document?
 25 A Yeah. I think I remember

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1 M.H. Capogrosso
 2 seeing that, yes.
 3 Q And what is this?
 4 A Stipulation of
 5 Discontinuance.
 6 Q And is this the document
 7 that ended the Article 78?
 8 A I believe so, yeah. I mean
 9 I hate to say the word I believe. Let me
 10 look at it.
 11 Yeah, that's Jackie's
 12 signature, yes.
 13 Q And so do you see anywhere
 14 on here where there's an anger management
 15 requirement?
 16 A No.
 17 Q I don't either.
 18 A No.
 19 Q So was anger management part
 20 of the deal to have you come back to the
 21 TVB?
 22 A The only deal I agreed to.
 23 I was -- the judge told me the day I went
 24 to court initially on this Article 78.
 25 the judge told me two things and he said

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1 M.H. Capogrosso
 2 either -- she told me. She told me I'll
 3 give you a date a year from now to argue
 4 this case or go take an anger management
 5 course. I told the judge I'll take an
 6 anger management course because I threw a
 7 punch at a wall and to me -- well,
 8 that's -- I said let me take the anger
 9 because that's -- I said let me take the
 10 anger management course. I had a lot of
 11 clients calling me left and right, I had
 12 to get back to court and deal with this.
 13 I took an anger management
 14 course. That's what I agreed.
 15 MR. THOMPSON: And,
 16 Ms. MacDonald, let's please mark this
 17 Stipulation of Discontinuance as
 18 Exhibit 18.
 19 (The above-referred-to
 20 stipulation of discontinuance was
 21 marked as Exhibit 18 for
 22 identification as of this date.)
 23 Q And now, Mr. Capogrosso, you
 24 see how we are back at Exhibit 19?
 25 A Yes.

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1 M.H. Capogrosso
 2 Q So is it safe to say.
 3 whether or not you feel that it's part of
 4 the deal, that DMV warned you in this
 5 letter that threatening conduct or
 6 physical violence would result in your
 7 expulsion?
 8 A Listen, I agreed to take an
 9 anger management course. You can say
 10 whatever you like. Obviously if there's
 11 threatening conduct and all this other
 12 stuff, you have a right to do what you
 13 have to do, but I have a right to defend
 14 myself as to those allegations.
 15 Now, Chris told me Mario, if
 16 you go back there and you sneeze the
 17 wrong way they're throwing you out again.
 18 He told me that. So he said he didn't
 19 trust Gelbstein at all. He didn't trust
 20 Gelbstein as to what he was saying.
 21 I said Chris, I took the
 22 anger management course. It cost me a
 23 lot of money. I told you it cost me
 24 what. \$10,000, 7,500, plus I had to give
 25 Chris his fee. I took it and that's what

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1 M.H. Capogrosso
 2 I agreed to.
 3 Now, did I -- did I not
 4 reserve my right to question any removal?
 5 I never, never disavowed my right to
 6 question my removal, never, never. I
 7 would never have signed off on that, that
 8 I didn't have a right to respond or to
 9 defend myself against these allegations.
 10 I would never have -- I would never sign
 11 off to anything like that, never.
 12 I have a right to defend
 13 myself in a courtroom against statements
 14 and affidavits written against me. I
 15 would never surrender that right on any
 16 level.
 17 Q So, Mr. Capogrosso, one more
 18 quick question on Exhibit 19. Is this
 19 the document that established your right
 20 to go back to the TVB?
 21 A No.
 22 Q And I'll point to this last
 23 part of the first paragraph where
 24 Ms. Farooq writes that she is going to,
 25 quote, "advise you that Mr. Capogrosso

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1 M.H. Capogrosso
 2 may appear on behalf of his clients at
 3 Traffic Violation Bureau offices as of
 4 June 27, 2012."
 5 A My attorney told me that I
 6 could go back on June 27. My attorney
 7 told me to go back. This letter was
 8 thrown at me two days before I was to go
 9 back from your office with all these
 10 conditions.
 11 I never, never surrendered
 12 any right to go to trial or go to a
 13 hearing and defend myself against any
 14 accusations. That wouldn't make any
 15 sense. Why would I do that? I'd
 16 rather --
 17 Q I think you did.
 18 A I would rather go to the
 19 Article 78 proceeding and give myself a
 20 fair chance before a judge to hear the
 21 case. I would never surrender that
 22 right.
 23 I was told by my lawyer
 24 you're free to go back on June 27, which
 25 is what I did. Your office sent me that

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1 M.H. Capogrosso
 2 letter two days beforehand. That's when
 3 I received it.
 4 Q Do you think at this point
 5 that the TVB wanted to get rid of you?
 6 A Yeah and I think your office
 7 didn't treat me fairly. That letter
 8 or anything should have been sent to me a
 9 hell of a lot earlier. Two days before
 10 I'm going back, are you treating me fair?
 11 Q Mr. Capogrosso, I'll
 12 represent --
 13 A I don't think --
 14 Q -- to you that we did, in
 15 fact, send exhibits.
 16 A They did not treat me
 17 fairly, no. Absolutely they wanted to
 18 get rid of me, absolutely.
 19 Q Okay. And so did you, in
 20 fact, return to practice at the TVB on
 21 June 27, 2012?
 22 A Yes, yes.
 23 Q So let's move on to a new
 24 exhibit.
 25 Mr. Capogrosso, do you

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1 M.H. Capogrosso
 2 recognize this document?
 3 A It's a Work Violence Report.
 4 Q And what is it?
 5 A It's a Work Violence Report
 6 by one of your -- by one of your
 7 representatives at the DMV, by -- Calvo's
 8 name is on it. That's the name I
 9 recognize.
 10 Q Do you recognize Geri
 11 Piparo?
 12 A No.
 13 MR. THOMPSON: All right.
 14 Ms. MacDonald, can I ask you to mark
 15 this as Exhibit 20?
 16 (The above-referred-to
 17 report was marked as Exhibit 20 for
 18 identification as of this date.)
 19 Q So, Mr. Capogrosso, do you
 20 know who Geri Piparo is?
 21 A No. I never heard --
 22 Q I'll represent to you --
 23 A -- of that name.
 24 Q I'll represent to you that
 25 she's one of the clerks and that she

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1 M.H. Capogrosso
 2 signed the petition regarding you in
 3 2011.
 4 A All right. Fine.
 5 Q On page 2 she writes "Mario
 6 Capogrosso accused David Smart of looking
 7 at him and there were heated words
 8 exchanged. PO Nielsen intervened."
 9 Can you tell me what
 10 happened?
 11 A Well, there was a hell of a
 12 lot more than looking at me. When I came
 13 back from the -- my anger management
 14 course, which I came back in June, I had
 15 to leave in December of 2011, I was told
 16 by one of the clerks, Cindy, the lady I
 17 was talking to who liked me I guess a
 18 little bit, that a motorist came down
 19 looking for me, came down looking for me
 20 to give me a fee because he owed me money
 21 on a case and that she was told by the
 22 motorist that David took the fee. It was
 23 \$80 and a \$150 fee, right. So I report
 24 that to Judge Gelbstein because he stole
 25 it. You steal money, you should get

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1 M.H. Capogrosso
 2 reported.
 3 After that there was a
 4 series of harassments by David Smart
 5 against my person. I've gone into them
 6 with you. I've gone into them. He's
 7 pushed me from behind. He gave me the
 8 sign of the cross and the spear hand one
 9 day. He would get in my face, a couple
 10 of inches, but the same David Smart that
 11 approached me on May 11 after he stole
 12 the money and I reported him. Get in my
 13 face. What's the problem? Fuck you.
 14 you're the problem. Again, fuck you,
 15 you're the problem, two, three, four
 16 times.
 17 So I tell -- I must have
 18 told this woman, you know, this guy
 19 doesn't want to leave me alone. Doesn't
 20 want to leave me alone. Why do I have
 21 to --
 22 Q And is this --
 23 A -- be harassed because I
 24 report a theft which should have been
 25 reported, which is the right thing to do.

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1 M.H. Capogrosso
 2 so that's what was going on.
 3 Q Is this incident, May 5th of
 4 2014, is this the first incident or
 5 confrontation you had with Mr. Smart?
 6 A No, no. Like I said, I
 7 walked away a million times. I have no
 8 reason to have a beef with a security
 9 guard. I'm a lawyer. I got two licenses
 10 I have to protect. I spent a lot of
 11 money, a lot of time getting this
 12 license. I don't need a beef with a
 13 security guard. I don't need it. I
 14 walked away.
 15 Q What was --
 16 A Let me finish. It's not the
 17 first time, no, not the first time.
 18 Q When was the first time?
 19 A June of 2012. As soon as I
 20 got back in, he comes up from behind me
 21 and pushes me from behind. He's like --
 22 pushes me.
 23 I tell Gelbstein about it.
 24 He looks at the security tape I think and
 25 he says you don't need this down here. I

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1 M.H. Capogrosso
 2 said the man just assaulted me from
 3 behind. Are you going to do anything
 4 about it? And that was the end of it.
 5 He pushes me from behind. June of 2012
 6 when I -- first week I was back in there.
 7 I reported it to Gelbstein.
 8 He looked at the videotape. He did
 9 nothing about it. Did I go to the cops,
 10 no, I don't go to the cops. I'm not
 11 going to complain about a cop and get a
 12 guy arrested. I'm not doing it. That's
 13 not who I am.
 14 But should he have been
 15 removed from the DMV at that point in
 16 time, absolutely and he wasn't.
 17 Q Mr. Capogrosso, I'm bringing
 18 up another document.
 19 And can you see the
 20 document? Can you see it okay.
 21 Mr. Capogrosso?
 22 A Yeah. I can't see the whole
 23 thing. You have to go down.
 24 Q Yeah, sure. Actually, let
 25 me zoom out a little bit. Is that

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1 M.H. Capogrosso
 2 easier?
 3 A Who wrote this? Wanda.
 4 Wanda was a clerk.
 5 Q And this document is marked
 6 or is Bates stamped DMV-0000061; correct?
 7 A Yeah, right. She's accusing
 8 me -- okay. Go ahead.
 9 Q Do you recognize this
 10 document?
 11 A Yeah. I see this document.
 12 yeah.
 13 Q And what is it?
 14 A Wanda is accusing me of
 15 telling a motorist to give a clerk an
 16 attitude. I don't understand that. I
 17 don't understand how I could tell a
 18 motorist to give a clerk an attitude. I
 19 mean that's just ridiculous.
 20 MR. THOMPSON: Can we mark
 21 this as Exhibit 21?
 22 (The above-referred-to
 23 statement was marked as Exhibit 21
 24 for identification as of this date.)
 25 A I'm telling a motorist to

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1 M.H. Capogrosso
 2 give a clerk an attitude? How do you
 3 tell a motorist to give a clerk an
 4 attitude?
 5 This is the clerks I had to
 6 deal with. I told the guy that I'm not
 7 here to give -- now go ahead.
 8 Q So what's your recollection
 9 of what happened in this incident on
 10 October 29, 2014?
 11 A I never saw -- I was never
 12 addressed with this issue. I never saw
 13 this until I received this affidavit from
 14 your office.
 15 But she's telling me that I
 16 told a guy that I'm -- to encourage the
 17 motorist beforehand to give me an
 18 attitude is what she's accusing me of
 19 doing. Me, a lawyer, is telling a
 20 motorist to go to the clerk and give the
 21 clerk an attitude.
 22 Q Now what --
 23 A That's what your clerks are
 24 accusing me of.
 25 Q But, sir, do you have,

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1 M.H. Capogrosso
 2 sitting here today at the deposition, do
 3 you have any independent recollection of
 4 this?
 5 A No, absolutely not because I
 6 wouldn't even know how to say that to a
 7 motorist. Go to a clerk -- no, I have no
 8 knowledge of this. I would not know how
 9 to tell --
 10 Q So --
 11 A I would not know how to tell
 12 a motorist to go give a clerk an
 13 attitude. I mean this is a clerk whose
 14 got some issues. I was --
 15 Q So did this happen?
 16 A I don't know. No, it didn't
 17 happen, number one and it's ludicrous.
 18 How do you tell a motorist to give a
 19 clerk an attitude and these are the
 20 clerks I got to deal with.
 21 Q So is it Ms. Alford lying
 22 here?
 23 A I did not tell a motorist to
 24 give a clerk an attitude. I did not.
 25 That's a ridiculous friggon -- that's

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1 M.H. Capogrosso
 2 a -- excuse my language. That's a
 3 ridiculous accusation against me.
 4 ridiculous, but these are the type of
 5 clerks I have to deal with.
 6 Q So the question was do you
 7 believe that she's lying here?
 8 A I did not tell a motorist to
 9 give a clerk an attitude. I did not.
 10 Now --
 11 Q I understand that, but yes
 12 or no?
 13 A Maybe she -- I don't know
 14 what she's thinking, but I did not tell a
 15 clerk -- a motorist to give a clerk an
 16 attitude. First of all, I don't even
 17 know how to do that or how a motorist
 18 would know how to do that. How would a
 19 motorist know how to give a clerk an
 20 attitude?
 21 Q So why would she write this?
 22 A I don't know. I don't know.
 23 They didn't want me there. I don't know.
 24 Maybe you got a bunch of crazy clerks
 25 down there.

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1 M.H. Capogrosso
 2 Q Did Ms. Alford not want you
 3 there?
 4 A Who's Ms. Alford? Wanda?
 5 Q Wanda Alford who --
 6 A I don't know.
 7 Q -- wrote the letter.
 8 A I don't know. This is the
 9 first -- the first time I saw this
 10 complaint that I have an opportunity to
 11 respond to is when you sent it to me and
 12 I don't even know how to respond to it.
 13 I wouldn't know how to deal with this.
 14 I'm accused of telling a motorist to give
 15 a clerk an attitude.
 16 MR. THOMPSON: And,
 17 Ms. MacDonald, if we didn't do that
 18 already, let's mark that as Exhibit
 19 21.
 20 A Is that threatening conduct
 21 or verbal abuse?
 22 Q Mr. Capogrosso, can you see
 23 the document that I just put up?
 24 A Yeah. This is something
 25 David Smart wrote.

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1 M.H. Capogrosso
 2 Q Do you recognize this?
 3 A Yeah. I saw it when you
 4 gave it to me, yes. He signed something.
 5 It's an unsigned note of David Smart.
 6 Q And this is -- this document
 7 is marked Gelb-0000059; correct?
 8 A Yeah.
 9 Q What is this document?
 10 A Some type of complaint by --
 11 on February 3, I don't know what year.
 12 9:15 a.m. Smarts telling me that I
 13 deliberately walked into him. I am --
 14 there's a board --
 15 Q Mr. Capogrosso, I'm sorry.
 16 we lost your audio for a second there.
 17 Can you restate that?
 18 A Yeah. This is -- I'm being
 19 accused -- I'm being accused of walking
 20 into a security guard. Now, at the DMV
 21 there's a board that was hanging up when
 22 I was there and every day there was a
 23 calendar on the board as in most
 24 courthouses that tell you where each case
 25 is going to be heard.

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1 M.H. Capogrosso
 2 I go in the morning, right.
 3 David would put up or somebody would put
 4 up the calendar. Most times it was David
 5 Smart and in the afternoon he would take
 6 it down. So I have to go to the calendar
 7 to look at the calendar because in the
 8 morning there's a lot of people and
 9 everybody's rushing around here and
 10 there. You have to know what courtroom
 11 to go in.
 12 So I'm walking to the
 13 calendar and he tells -- and I'm trying
 14 to go to the calendar and he tells me I
 15 deliberately walked into him. I mean
 16 that's just stupid. We are both working
 17 in the same location. We both have to go
 18 to the calendar. He has to hang it up
 19 and I have to look at it.
 20 I'm deliberately walking
 21 into a security? I have to work in this
 22 courthouse. I'm sorry. As a lawyer I
 23 have to go to the board and look at the
 24 docket to see where my case is being
 25 held. This is what I'm being accused of,

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1 M.H. Capogrosso
 2 deliberately walking into a guard.
 3 We work in the same
 4 building. We both have to go to the --
 5 to the board in the morning, to the
 6 docket. He has to hang it up. I got to
 7 look at it to see where my case is.
 8 That's all I have to say about this.
 9 Q So is Mr. Smart lying?
 10 A That I deliberately walked
 11 into him, yes, absolutely. I don't
 12 need --
 13 Q Why is he --
 14 A -- this beef with a security
 15 guard. I don't need a beef with a
 16 security guard at a courthouse that I'm
 17 trying to make a living at.
 18 Q And why do you think he's
 19 lying?
 20 A I don't know. Why would I
 21 deliberately walk into a security -- I'm
 22 going to the board to check the calendar.
 23 Q Did he have any animis
 24 towards you?
 25 A I told you, I reported to

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1 M.H. Capogrosso
 2 Gelbstein that he stole \$80 and a \$150
 3 fee and I found that out when I got back
 4 after taking my anger management course.
 5 I told you that. Cindy told --
 6 Q And --
 7 A And then I wrote to the
 8 motorist. The motorist confirmed it. I
 9 didn't go to the police because that's
 10 not what I do. I'm not going to get the
 11 guy arrested. Like maybe I should have
 12 looking back on this thing now.
 13 Q And would you have --
 14 A Gelbstein investigated it.
 15 Gelbstein admits to me that Smart said he
 16 took the money and he gave it to me,
 17 which is an absolute lie. First of all,
 18 I authorized nobody to take money on my
 19 behalf, collect money on my behalf. He
 20 had no authority to collect a fee on my
 21 behalf, this security guard. Smart and
 22 Gelbstein believes it, that he gave me
 23 the money. Gelbstein believes this.
 24 I told him the security
 25 guard had no authority to take the money.

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1 M.H. Capogrosso
 2 but he allows the security guard to stay
 3 and then the harassment started and I
 4 guess this is one of the ways he did it.
 5 He's saying I deliberately walked into
 6 him.
 7 Q And would it be correct to
 8 say that you feel that Mr. Smart had a
 9 grudge against you after this?
 10 A Absolutely, absolutely he
 11 had a grudge. He wouldn't let it go. If
 12 you steal, I'm going to report it. It's
 13 a theft. It's a theft. I am a lawyer.
 14 I am an officer of the court. You steal.
 15 you're not stealing from me. You're
 16 stealing from that cab driver who \$80 is
 17 a lot of money to.
 18 Q And do you believe that he
 19 wanted -- not he. Do you believe that
 20 Mr. Smart wanted to get rid of you --
 21 A Absolutely.
 22 Q -- because of this threat?
 23 A Absolutely. He wouldn't
 24 start the harassment. I told you all the
 25 incidents. He gets in my face. What's

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1 M.H. Capogrosso
 2 the problem? Fuck you, you're the
 3 problem. I told you that.
 4 Q One last question.
 5 Mr. Capogrosso, this note is marked
 6 February 3 at 9:15 a.m. Do you recall
 7 what year this was?
 8 A It was after. I don't know.
 9 It's the first time -- the only time I
 10 saw this note is when you produced it to
 11 me in discovery. I assume -- I assume it
 12 was after the incident with Brody because
 13 that's when I reported the theft.
 14 Q After the incident with?
 15 I'm sorry, I didn't quite hear that.
 16 A With Brody. It was after I
 17 came back in June of 2012 --
 18 Q Okay.
 19 A -- because that's when I
 20 reported the theft.
 21 Q So, Mr. Capogrosso, I'm
 22 going to bring up --
 23 MR. THOMPSON: Oh, and
 24 actually before we are done, I don't
 25 know if I marked that, but

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1 M.H. Capogrosso
 2 Ms. MacDonald if we didn't please
 3 mark that as Exhibit 22, that note.
 4 (The above-referred-to note
 5 was marked as Exhibit 22 for
 6 identification as of this date.)
 7 Q Mr. Capogrosso, do you see
 8 the document that I just put up?
 9 A Yeah, Paul Perez.
 10 Absolutely, I remember this one.
 11 Q And do you recognize this
 12 document?
 13 A Well, I recognize it because
 14 you produced it. I never saw it before.
 15 Just the fact that you produced it.
 16 Q And this document is marked
 17 Gelb-0000058; correct?
 18 A Yes.
 19 Q And it's your testimony that
 20 you never saw this document before the
 21 case; correct?
 22 A I never saw any of these
 23 affidavits before this case.
 24 MR. THOMPSON: Ms.
 25 MacDonald, can I ask you to mark this

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1 M.H. Capogrosso
 2 as Exhibit 23?
 3 (The above-referred-to
 4 statement was marked as Exhibit 23
 5 for identification as of this date.)
 6 Q And, Mr. Capogrosso, who is
 7 Paul Perez?
 8 A What I remember, he was a
 9 motorist that came down to the DMV. I
 10 did not represent him on any hearings
 11 even though there's a work -- there's an
 12 incident report that says I represented
 13 him in court. I never represented -- and
 14 it could have been investigated and it
 15 wasn't. I never represented him on his
 16 hearing.
 17 He had a hearing before
 18 Judge Walters, that I know because I was
 19 sitting outside the courtroom. He came
 20 outside the courtroom while I was sitting
 21 on the bench and I think he was with his
 22 girlfriend and they asked me if I'm a
 23 lawyer because I'm sitting there with a
 24 suit on and my calendar and can you help
 25 him write an appeal. I said I'll take

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1 M.H. Capogrosso
 2 the appeal. He was very nice when I
 3 first met him, very nice. Sat down, I
 4 said I'll take it on appeal. Collect a
 5 fee on the appeal.
 6 I never represented him in a
 7 courtroom. I did not get his license
 8 suspended. I was not the -- I was not in
 9 the courtroom with him. I did not argue
 10 his case. I was hired to write the
 11 appeal.
 12 The next day he comes down.
 13 He finds out that his license got
 14 suspended. This guy had a terrible
 15 license, terrible. He comes in, comes at
 16 me, starts yelling at me. I said here,
 17 take your appeal -- take your appeal and
 18 I gave him his money back.
 19 No. First thing he says
 20 was -- is that he curses me out. He says
 21 I'm going to cut you with a knife and
 22 slash the tires of your car. I said I
 23 didn't get your license suspended. I'm
 24 hired to write the appeal. I'm going to
 25 cut you -- his exact words, I'll never

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1 M.H. Capogrosso
 2 forget it, I'm going to cut you with a
 3 knife and I'm going to slash tires of
 4 your car.
 5 At that point I gave him his
 6 money back on his appeal and he keeps
 7 saying it to me, I'm going to cut you
 8 with a knife, I'm going to slash the
 9 tires of your car.
 10 I look around for the
 11 security guard. He's nowhere to be
 12 found, Smart. Smart's not there. The
 13 police officers are there, but they're
 14 not doing anything about this.
 15 At that point in time
 16 Gelbstein told me if you got an unruly
 17 client -- and I don't know if this guy's
 18 got a knife on him or not, I really don't
 19 know because there's no -- there's no
 20 metal detectors coming into DMV. You
 21 just walk in and out. You can carry
 22 anything you want, guns, knives,
 23 whatever.
 24 Gelbstein told me if you got
 25 a bad client, unruly client, you got to

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1 M.H. Capogrosso
 2 go outside the courthouse and speak to
 3 him outside, which I proceeded to do with
 4 this guy. He just threatened me twice,
 5 he's going to cut me with a knife and
 6 slash the tires of my car. I said let's
 7 go outside, we got to talk, which is what
 8 Gelbstein told me to do and I obeyed.
 9 That's what happened here.
 10 And he didn't go out -- he
 11 walked halfway and he turned around. I
 12 obeyed what defendant Gelbstein told me
 13 to do. I'm not going to be threatened
 14 with a knife and tell me the tires of my
 15 car were going to be slashed. The
 16 security guard is nowhere to be found,
 17 Smart. The police officers don't want to
 18 get involved. It's not going to happen
 19 to me.
 20 And I obeyed what Gelbstein
 21 did. I went out -- he said talk to him
 22 outside. I said let's go talk outside,
 23 which is what I did. That's what
 24 happened here. And it could have been
 25 investigated, that I was not in this

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1 M.H. Capogrosso
 2 courtroom. I did not argue his case. I
 3 did not get his license suspended. I did
 4 not.
 5 And the facts of this case
 6 were never investigated, nor was my --
 7 nor was I ever given an opportunity to
 8 state what happened in this case.
 9 Apparently --
 10 Q Mr. Capogrosso --
 11 A -- but Perez made a
 12 statement.
 13 Go ahead.
 14 Q Mr. Capogrosso, when Perez
 15 writes that you were taking on a case for
 16 him and, quote, "didn't live up to his
 17 responsibility," what does he mean?
 18 A I have no idea. I don't
 19 know. I don't know. The next day he
 20 comes in, the day after he got suspended
 21 in court, the day after Walters suspended
 22 his license he comes in and tells me I'm
 23 going to cut you with a knife and slash
 24 the tires.
 25 I didn't argue your case.

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1 M.H. Capogrosso
 2 Mr. Perez. I didn't argue your case.
 3 Here's your money back on the appeal. I
 4 don't want you as a -- take your money
 5 back. I'm not going to -- I'm not
 6 going -- I'm not going to be threatened
 7 by a client with a knife.
 8 Q Do you think -- do you think
 9 he blamed you for the loss of his case at
 10 the TVB?
 11 A I think he might have been
 12 on drugs, seriously on drugs this guy
 13 because when I met him for the first
 14 time, he was a normal nice guy, normal.
 15 had a normal conversation because I could
 16 size up a guy pretty quickly. I've been
 17 dealing with these clients for a long
 18 time. I can size you up. He was normal
 19 and nice. His girlfriend was nice.
 20 The next day I'm cutting you
 21 with a knife and I'm slashing the tires
 22 of your car. That's the incident.
 23 That's what happened.
 24 Q So his version of events
 25 says that he told you he wanted another

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1 M.H. Capogrosso
 2 lawyer and his money back and that you
 3 told him to go fuck myself and that we
 4 can take it outside.
 5 A I gave him the --
 6 Q Is that true?
 7 A No. First of all, I didn't
 8 argue the case. He hired me on the
 9 appeal. He hired me on the appeal. I
 10 gave him his money back right away. I
 11 gave him his money back. I took --
 12 Q Did you tell him --
 13 A Let me finish. If I didn't
 14 give him money back, right, because every
 15 time I give money back I take the receipt
 16 back. He would have produced my receipt
 17 and he doesn't produce it. I give him a
 18 business card with my receipt on the
 19 back. I sign my name to it. I tell him
 20 the total amount, the amount paid.
 21 But if I give you the money
 22 back, which I did here, he gives me the
 23 receipt back this way I'm not going to --
 24 this way he has proof -- I have proof I
 25 gave him the money back, he no longer has

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1 M.H. Capogrosso
 2 my receipt, right.
 3 He doesn't produce the
 4 receipt here. I gave him my money back
 5 and he, like he said --
 6 Q So --
 7 A -- he's going to cut me with
 8 a knife and slash the tires of my car.
 9 Q Mr. Capogrosso, did you tell
 10 him to go fuck himself?
 11 A I don't remember what I
 12 said. After you tell me to go -- after
 13 you tell me you're going to slash my
 14 tires, he's going to cut me with a knife
 15 and slash the tires of my car, I might
 16 have said that. I might have told him
 17 fuck, yes, I might have said something
 18 like that.
 19 Q Did you tell him that you'd
 20 take it outside?
 21 A I looked around for the
 22 security -- no. What I said was this and
 23 I'll tell it exactly again. I said here's
 24 your money back. He came in the next
 25 day. There was no way I could have

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1 M.H. Capogrosso
 2 written the appeal in a day anyway. Take
 3 your money back. Because I didn't mess
 4 up his case in any way. I didn't mess it
 5 up because I didn't argue it and I was
 6 given no opportunity to argue the appeal.
 7 so I messed up nothing. I messed up
 8 nothing.
 9 He came back the next day
 10 and if you investigated the facts of this
 11 you would have seen it, at that -- at
 12 which point in time he tells me I'm going
 13 to cut you with a knife and I'm going to
 14 slash the tires of your car.
 15 Take your money back and
 16 then he repeatedly tells me he's going to
 17 cut me with a knife and slash the tires
 18 of my car. At that point, like I said, I
 19 looked for the security guard, not there.
 20 This is what happened. The police were
 21 standing there. They did nothing. After
 22 he repeatedly telling I'm going to cut
 23 you with a knife and slash the tires on
 24 your car, I said we have to talk outside.
 25 That's what I said.

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1 M.H. Capogrosso
 2 Q So you said we have to talk
 3 outside?
 4 A I said we have to talk
 5 outside is what I said. The guy might be
 6 having -- the guy might have a knife on
 7 him. I don't know what he's got on him.
 8 Q So --
 9 A There's no camera. There is
 10 no -- when you walk in the TVB, there is
 11 no metal detectors there. There's nobody
 12 checking. Anybody can walk in. I did
 13 what I had to do in that --
 14 Q So this --
 15 A I did what I had to do in
 16 that instance.
 17 Q So, Mr. Capogrosso, is Paul
 18 Perez lying in this statement that he
 19 made?
 20 A I didn't mess up. He's
 21 lying there. I never messed up. I
 22 didn't argue the case and I didn't have
 23 any time to write the appeal, so I didn't
 24 mess up.
 25 Q So why would --

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1 M.H. Capogrosso
 2 A I gave him his money back.
 3 Q -- he lie about you?
 4 A I'm telling you what
 5 happened. I don't know why he would lie.
 6 Ask him. I'm telling you the facts. He
 7 did lie because if you investigated the
 8 facts and Danielle Calvo investigated it,
 9 she would have seen that I didn't
 10 represent him in a courthouse -- in the
 11 hearing room. There's the lie. I never
 12 was in the hearing room with him, ever
 13 and the incident report that was written
 14 indicates that I argued three cases for
 15 him. That is a lie.
 16 I never argued three cases
 17 for him and got him suspended. I was
 18 never in the hearing room.
 19 Q But why would he lie though?
 20 A I don't know why. Ask him
 21 why. He was upset I would imagine. I
 22 can't speculate to that. I never argued
 23 three cases for him in the -- in the
 24 hearing room, I never argued, but that's
 25 what the report says --

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1 M.H. Capogrosso
 2 Q And how --
 3 A -- I argued three cases. He
 4 is lying. Why he's lying, I don't know.
 5 but he is lying. He's upset his license
 6 got suspended. I didn't suspend his
 7 license. The judge suspended him.
 8 MR. THOMPSON: Ms.
 9 MacDonald, can you mark that document
 10 for Mr. Perez if we haven't already
 11 as Exhibit 23.
 12 Q Mr. Capogrosso, I'm about to
 13 show you another document. Do you
 14 recognize this document, sir?
 15 A Can you go down a little
 16 bit?
 17 Q Sure.
 18 A Yeah. This is Perez, this
 19 thing with Perez. Who wrote this one?
 20 Melissa, who's Melissa? I don't know who
 21 Melissa is, but go ahead. I've seen this
 22 document, yeah.
 23 Q And what is this document?
 24 A It's another affidavit that
 25 was submitted against me.

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1 M.H. Capogrosso
 2 Q And this one is marked --
 3 Bates stamped DMV-0000059; correct?
 4 A Yeah.
 5 MR. THOMPSON: Ms.
 6 MacDonald, if we could mark that as
 7 Exhibit 24.
 8 (The above-referred-to
 9 statement was marked as Exhibit 24
 10 for identification as of this date.).
 11 Q So who is Melissa Vergara?
 12 A I have no idea who Melissa
 13 is.
 14 Q So she says she was sitting
 15 at information station 7, so does that
 16 refresh your recollection at all?
 17 A No.
 18 Q But if she was sitting at an
 19 information station, she was probably a
 20 clerk; right?
 21 A Well, yeah. She would be a
 22 clerk, yeah.
 23 Q So as you said she's talking
 24 about the situation with Mr. Perez. She
 25 says she could hear arguing between Mario

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1 M.H. Capogrosso
 2 Capogrosso and a male motorist who was
 3 later identified as Paul Perez.
 4 A Yup. I was arguing with the
 5 man, yes.
 6 Q And then she writes and I'll
 7 highlight this on the screen. "In a clear
 8 and hostile tone, Mr. Capogrosso said to
 9 the motorist to take this outside.
 10 Originally the motorist began following.
 11 He had even taken off his jacket and
 12 swung it on to a stanchion, but only got
 13 about halfway before he stopped himself.
 14 turned around, picked up his jacket and
 15 placed himself in the information line.
 16 Mr. Capogrosso did not. He kept walking
 17 to the door."
 18 Does that refresh your
 19 recollection of what happened?
 20 A Yeah, that's what happened.
 21 After he said he was going to cut me with
 22 a knife and slash the tires on my car, he
 23 said it more than once to me, I looked
 24 around for the security guard, nowhere to
 25 be there. Police officer didn't get

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1 M.H. Capogrosso
 2 involved. Gelbstein told me we have to
 3 talk outside. I said we got to go
 4 outside and talk.
 5 I started walking to the
 6 door to talk to this man and he stopped.
 7 Q Ms. Vergara --
 8 A That's what happened.
 9 Q Ms. Vergara also says that
 10 you said to take it outside. Do you
 11 recall that?
 12 A I said we have to talk
 13 outside.
 14 Q Okay.
 15 A We have to talk outside is
 16 what I said. We have to go outside and
 17 talk, which is what Gelbstein told me to
 18 do. You know, I don't go to the DMV to
 19 get cut and slashed by a motorist. I
 20 don't go there for that. I go there to
 21 represent clients and make a living.
 22 Now, there should have been
 23 a security guard in there intervening or
 24 the police should have intervened. I
 25 should not have been put in this

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1 M.H. Capogrosso
 2 situation, but neither one did. And I
 3 should not have been told by Gelbstein in
 4 a situation like this to go outside the
 5 courtroom and talk to him about it.
 6 Q And do you think --
 7 A I don't go to a courtroom --
 8 where most courthouses they have metal
 9 detectors, this one has none. Where I'm
 10 going to be told I'm going to get cut
 11 with a knife and slash the tires on my
 12 car and I got to sit there and be quiet.
 13 Q And do you think they didn't
 14 do anything because they wanted you gone?
 15 A I don't know. Nobody got
 16 involved. Smart didn't get involved.
 17 Nobody took my affidavit as to what
 18 happened. Nobody investigated the facts
 19 as to what happened because they would
 20 have seen I never represented him in a
 21 courthouse. I never represented him in a
 22 trial, I never did and they would have
 23 seen that. But in the incident report
 24 they wrote, they state that I represented
 25 him in a hearing, which is a lie. I did

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1 M.H. Capogrosso
 2 not get the man's license suspended.
 3 Q So, Mr. Capogrosso, I'm
 4 bringing up another document. Do you
 5 recognize this document?
 6 A Yes. I recognize Melanie
 7 Levine.
 8 Q And what is this document?
 9 A That's the incident report
 10 concerning Mr. Perez.
 11 MR. THOMPSON: And,
 12 Ms. MacDonald, can I ask you to
 13 please mark this as Exhibit 25?
 14 (The above-referred-to
 15 report was marked as Exhibit 25 for
 16 identification as of this date.).
 17 Q So, Mr. Capogrosso, who is
 18 Melanie Levine?
 19 A Well, I thought she was a
 20 clerk, but she's actually a supervisor of
 21 the clerks down at the DMV, Brooklyn TVB.
 22 Q And she writes that you did
 23 represent Mr. Perez at trial for three
 24 violations. If she's a clerk, is she in
 25 a position to know whether or not you did

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1 M.H. Capogrosso
 2 that?
 3 A If she's a supervisory
 4 clerk, yes.
 5 Q So she writes that "Attorney
 6 Capogrosso and Mr. Perez engaged in a
 7 very loud verbal argument in the lobby
 8 with threats of escalating to a physical
 9 altercation outside in the parking lot."
 10 A I told you what happened.
 11 She never took my affidavit. The man
 12 threatened to cut me with a knife and
 13 slash the tires on my car twice.
 14 Q Well, she writes later on
 15 even afterwards that -- I highlighted
 16 that wrong -- that "Attorney Capogrosso
 17 continued to verbally provoke Mr. Perez
 18 into going outside while he was on line
 19 and throughout his experience at the
 20 service counter being helped by MVR
 21 Melissa."
 22 A That's an absolute lie.
 23 That's an absolute lie. I'm not
 24 provoking a guy with a knife who wants to
 25 cut me for a further altercation. I'm

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1 M.H. Capogrosso
 2 not doing that. I don't know the worst
 3 idiot in the world who's doing that. I
 4 don't know the worst -- that's an
 5 absolute lie.
 6 Q So why would Melanic lie?
 7 A I don't know why. That's an
 8 absolute lie. I never continued to
 9 provoke. I walked to the door. He
 10 stopped. He went back on line. I guess
 11 he thought he didn't want to get involved
 12 with this any longer and he went back on
 13 line. I turned away. I never provoked
 14 that incident any further.
 15 I've been in incidents like
 16 this before, I didn't provoke it, but the
 17 man was telling me twice he wants to cut
 18 me with a knife. There was no security
 19 guard. The police chose not to get
 20 involved. I said we have to talk about
 21 this outside at this point in time. I
 22 start walking to the door and he stops.
 23 That's what I remember and that's what
 24 happened.
 25 Why she's writing this, I

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1 M.H. Capogrosso
 2 don't know. If she investigated the
 3 facts of this she would have seen I never
 4 represented him in a courtroom and she
 5 didn't investigate the facts and she
 6 never asked my story on it.
 7 Q So Ms. Vergara and
 8 Ms. Levine both said that even after he
 9 went back in, you continued to provoke
 10 him.
 11 A I didn't provoke him. I was
 12 standing there watching him. I don't
 13 know if this guy's coming at me with a
 14 knife at this point. I didn't provoke.
 15 I'm watching. That's not provoking. I'm
 16 watching the man. I'm watching to see if
 17 my car -- my tires on my car get slashed,
 18 which I'm allowed to do.
 19 Q Then why would --
 20 A I was not provoking.
 21 Q So why would they say
 22 something --
 23 A I don't know why.
 24 Q -- that's not true?
 25 A You keep asking me why they

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1 M.H. Capogrosso
 2 say things. I don't know why. But tell
 3 me what words I used to provoke. Tell me
 4 what words I actually stated. They're
 5 not there. I provoked nothing. Tell me
 6 what words I used to provoke.
 7 Q Well, this is sort of an
 8 overview -- well, I think the word, one
 9 of the words is take this outside.
 10 But, Mr. Capogrosso, I think
 11 this speaks to sort of a broader question
 12 in this case, which is there are all of
 13 these documents alleging that you --
 14 A Well, I'm going to respond
 15 to each document separately, separately.
 16 Q And we've been addressing
 17 them separately, but it's worth talking
 18 about them together because --
 19 A Okay. What's your question?
 20 Q -- each of these documents
 21 that you're saying --
 22 A Counselor --
 23 Q -- are broad --
 24 A Counselor, what is your
 25 question?

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1 M.H. Capogrosso
 2 Q I'm getting there. There
 3 are all these documents we've been
 4 talking about written by different
 5 people, each of which you say are lies,
 6 each of which say more or less the same
 7 thing, that you verbally or physically
 8 threatened or intimidated somebody.
 9 Why are there so many people
 10 saying this and why are they all lying
 11 about you?
 12 A I've addressed each
 13 affidavit individually and I've told you
 14 my statement on each affidavit, each
 15 affidavit. I was there 10 years. I told
 16 you my statement on each affidavit and
 17 I've given you those reasons already.
 18 I'm not going to go into them again, but
 19 I'm telling you on this affidavit what
 20 happened that day.
 21 Q And you don't think there's
 22 a pattern here?
 23 A I responded to each
 24 affidavit individually. No, I do not
 25 think there's a pattern, no.

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1 M.H. Capogrosso
 2 Q Why not?
 3 A He told me he was going to
 4 cut me a knife, slash the tires on my car
 5 twice. I was told my Gelbstein if you
 6 got an unruly client, talk to him outside
 7 the courtroom, which is what I did. That
 8 is not provoking. That is not
 9 threatening. That is not verbal abusing.
 10 He walked to the line. I
 11 didn't -- I walked halfway and I stopped.
 12 I kept my eyes on this guy and I made
 13 sure he didn't cut the tires on my car.
 14 I did nothing wrong there.
 15 I do not think there's a
 16 pattern. I think each affidavit has to
 17 be taken individually and you tell me the
 18 facts of each affidavit. There is no
 19 pattern.
 20 Q Would someone who's not
 21 familiar with your situation, like Bushra
 22 Vahdat or Ida Traschen, see a pattern in
 23 all of these complaints?
 24 A Well, maybe if they asked me
 25 my opinion as to what happened and gave

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1 M.H. Capogrosso
 2 me an opportunity to state my opinion,
 3 then they would have seen what actually
 4 happened here, but they gave me no
 5 opportunity, none. They write an
 6 incident report that's a lie because they
 7 could have investigated it and they
 8 didn't.
 9 I didn't represent this guy
 10 Perez. They have -- so I don't know what
 11 they're going to -- at least ask me my
 12 opinion as to what happened on each case
 13 and give me an opportunity to defend
 14 myself.
 15 Q I mean how many
 16 investigations are they supposed to run?
 17 You know, at this point we are on Exhibit
 18 25 we just went through. How many
 19 investigations are they supposed to have
 20 made?
 21 A Counsel, anybody can write
 22 an allegation. Anybody can write an
 23 affidavit. If you're going to write it,
 24 then defend it and give me an opportunity
 25 to respond to it.

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1 M.H. Capogrosso
 2 Q Do they have an obligation
 3 to investigate every single complaint?
 4 A Yeah, they do. If you're
 5 going to put me out of work, yeah, they
 6 do. Yes, they do. I don't care how long
 7 it takes. If you're going to use it to
 8 put me out of work, you better
 9 investigate it --
 10 Q And what's --
 11 A -- otherwise you're not
 12 giving me a fair chance.
 13 Q And what's the legal
 14 authority for your contention that they
 15 had an obligation to investigate all
 16 these?
 17 A Because are they truthful or
 18 not? Are they truthful, the truth? Is
 19 there any substance to any of them?
 20 Anybody can make an allegation.
 21 Q So, Mr. Capogrosso, I
 22 understand that, but --
 23 A I can walk into the DMV and
 24 make allegations.
 25 Q Mr. --

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1 M.H. Capogrosso
 2 A I can walk -- wait a minute.
 3 I can walk into the DMV and make
 4 allegation, allegation and allegation and
 5 you know what, they would throw me out
 6 because I made allegations.
 7 Q Mr. Capogrosso, but the
 8 question was are you aware of any statute
 9 or regulation or other legal authority
 10 requiring the investigations that you're
 11 demanding?
 12 A I think if you're to make an
 13 allegation against a guy, you got to give
 14 a guy a chance to defend himself, hear
 15 the facts, otherwise it's not a --
 16 there's no allegation, just a one-sided
 17 statement.
 18 Q Mr. Capogrosso, I would
 19 appreciate it if you can answer this
 20 question yes or no. Are you aware of any
 21 statute, regulation or other legal
 22 authority that requires the
 23 investigations that you're demanding?
 24 A How about the 14th
 25 Amendment, due process of law?

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1 M.H. Capogrosso
 2 Q What does that mean to you?
 3 A To me it means I get a fair
 4 hearing. I get a chance to defend
 5 myself, present evidence, give an
 6 affidavit in response. The due process,
 7 the 14th Amendment to the Constitution.
 8 Due process, you're a lawyer. Let me
 9 tell my side. Let an independent
 10 somebody -- let them hear my side, give
 11 evidence --
 12 Q And --
 13 A -- present witnesses, give
 14 my statement --
 15 Q And Mr. Capogrosso --
 16 A -- do an investigation.
 17 Q Mr. Capogrosso, are you --
 18 A It can't be all one sided.
 19 Q Mr. Capogrosso --
 20 A You have to let me finish.
 21 Q No. Let me -- I have
 22 another question, so let me state my
 23 question. Are you aware that your due
 24 process complaint was dismissed by Judge
 25 Brody?

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1 M.H. Capogrosso
 2 A I had a right to be heard on
 3 these complaints. Anybody can write a
 4 complaint. This one by Perez is
 5 ridiculous. The man wants to cut me with
 6 a knife and you're telling me that that's
 7 acceptable in your -- in this courthouse.
 8 Q Mr. Capogrosso, my question
 9 was are you aware that your due process
 10 claim was dismissed?
 11 A No. I do not.
 12 Q No, you're not aware of
 13 that?
 14 A No, I'm not. Maybe it was
 15 dismissed, but when I was working at
 16 this, they should have heard my side of
 17 the story.
 18 Q But --
 19 A Mr. Perez comes down and
 20 threatens me with a knife twice, twice --
 21 Q But Mr. Capogrosso --
 22 A -- and nobody takes my
 23 affidavit concerning this. I mean is
 24 this -- is this whole system just
 25 ludicrous?

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1 M.H. Capogrosso
 2 Q Mr. Capogrosso, the federal
 3 court did dismiss your due process claim.
 4 That's no longer a part of this case.
 5 A All right. Fine. So let
 6 me go down to the --
 7 Q You know that, right?
 8 A Let me go down to the
 9 Brooklyn TVB and take a knife. Is that
 10 what you want me to do? Is that what the
 11 DMV wants me to do, take a knife?
 12 Q Are you --
 13 A Get cut by a motorist, is
 14 that acceptable?
 15 Q Are you threatening that?
 16 A No. I'm not threatening
 17 that, but that's what you want. No, you
 18 want me to take a knife. You want
 19 Mr. Perez to come down and slice up an
 20 attorney.
 21 Q No. No one wants that.
 22 A Well, then what would you
 23 want me to do in this instance?
 24 Q Well --
 25 A It's ridiculous.

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1 M.H. Capogrosso
 2 Q Well, if the incident
 3 didn't --
 4 A You have no metal detectors.
 5 no metal detectors, no security guard to
 6 be found, told by Gelbstein to talk to --
 7 to take the motorist outside.
 8 I did nothing wrong here.
 9 I'm sorry, I didn't. Let a Brooklyn jury
 10 hear it.
 11 Q All right. Let's move on.
 12 Mr. Capogrosso, I'm going to show you
 13 another document. Do you recognize this
 14 document, sir?
 15 A No. This one I don't know,
 16 no.
 17 Q This document is --
 18 A It's talking about a paper
 19 clip. I don't know what this is about a
 20 paper clip. I have no idea.
 21 Q Marked Gelb-0000035;
 22 correct?
 23 A Yeah.
 24 Q And I'll represent to you
 25 it's an e-mail from Geri Piparo sent on

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1 M.H. Capogrosso
 2 Monday, February 9, 2015.
 3 A You have a clerk leaving one
 4 paper clip. one paper clip every morning.
 5 I don't understand what this is about,
 6 but that's what she's doing. For an
 7 attorney to use, for what reason leaving
 8 one paper clip.
 9 This is the type of clerks
 10 you have down there. She's leaving one
 11 paper clip for an attorney to use, any
 12 attorney.
 13 Q So --
 14 A I don't understand what your
 15 clerks get paid to do, but this is what
 16 she likes to do.
 17 Q Why is that --
 18 Mr. Capogrosso, if I can ask, why is
 19 it -- why is there a problem with leaving
 20 a paper clip on a garbage pail?
 21 A There is none, do whatever
 22 you want, but it doesn't make any sense.
 23 What are you doing it for? What's the
 24 purpose? What is this Geri, whatever her
 25 name is, get paid to do?

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1 M.H. Capogrosso
 2 But there is no -- there is
 3 no reason, but I never said -- it doesn't
 4 make any sense to me this whole thing.
 5 It doesn't make any sense.
 6 Q Did you make a complaint to
 7 Judge Gelbstein about this paper clip?
 8 A No. Absolutely not. No.
 9 Q So why would she say that
 10 you did?
 11 A I don't know. She admits to
 12 doing it, it doesn't make a whole lot of
 13 sense, but she does what she does. This
 14 is what your clerks at the DMV get paid
 15 to do.
 16 Q Is she lying?
 17 A About leaving the clip, no.
 18 Did I make a complaint about it, no. I
 19 could care less about a paper clip.
 20 Q So is she lying about your
 21 conduct with the paper clip?
 22 A Absolutely. I could give a
 23 damn about a paper clip. Was it stupid
 24 that clerks have to waste time doing
 25 nonsense stuff like this, yes, stupid.

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1 M.H. Capogrosso
 2 You have --
 3 Q So --
 4 A It's absolutely stupid. Did
 5 I complain about it, no. Did I care
 6 about it, no.
 7 Q She then writes "On November
 8 18 as I was walking through the office,
 9 Mr. Capogrosso was with a customer and as
 10 I passed he said Geri, stick it where the
 11 sun don't shine."
 12 A No. I never said that.
 13 Q You never said that?
 14 A No. I could care less --
 15 Q Did you say anything like
 16 that?
 17 A No. I could care less about
 18 a paper clip. I could care less about a
 19 paper clip.
 20 Q I don't think that statement
 21 was in connection with the paper clip. I
 22 think she said that that was a different
 23 incident.
 24 A Well, concerning what?
 25 Concerning what?

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1 M.H. Capogrosso
 2 Q It's not clear.
 3 A Well, tell me what exactly
 4 I'm being accused of. I could care less
 5 about a paper clip. Tell me exactly.
 6 Q She says that you told her
 7 to stick it where the sun don't shine.
 8 A For what reason would I say
 9 that? Tell me why I would say that.
 10 Q I don't know. You're the
 11 deponent. You tell me.
 12 A I don't know why. I don't
 13 know why. I did not say it and tell me
 14 why she thinks I would have said it
 15 because it wasn't said.
 16 Q She then says "I informed
 17 Judge Gelbstein and Judge Vahdat again.
 18 Judge Gelbstein went out to speak to
 19 him."
 20 Do you remember this
 21 conversation?
 22 A No.
 23 Q She says that you verbally
 24 attacked Judge Gelbstein and her cursing.
 25 A No.

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1 M.H. Capogrosso
 2 Q Do you remember that?
 3 A No. I would never curse a
 4 judge. I would never curse a woman,
 5 never.
 6 Q So why is she lying?
 7 A I don't know. Ask her. I
 8 do admit that there was -- she was -- she
 9 admits to leaving this paper clip. It's
 10 absolutely ridiculous. Absolutely
 11 ridiculous that your clerks -- this is
 12 what clerks do. But do I give a damn
 13 about a paper clip. no.
 14 Q Can you explain to me why --
 15 like why is it ridiculous that they leave
 16 a paper clip someplace?
 17 A What's the purpose of
 18 leaving a paper clip someplace? It
 19 doesn't make -- for an attorney to use.
 20 Why would I -- I don't know. I don't
 21 understand the whole purpose of this
 22 though. It's just nonsensical.
 23 Q I guess my question is who
 24 cares if they leave a paper clip
 25 somewhere?

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1 M.H. Capogrosso
 2 A I don't care. That's the
 3 whole deal. I don't care. I don't know
 4 what this is about. I don't care. I
 5 don't give a darn about a paper clip in a
 6 courthouse. There's paper clips all over
 7 the place. You got a bunch of idiot
 8 clerks down there. I'm smirking at one
 9 and now I'm complaining about a clip.
 10 You got a bunch of idiot clerks.
 11 Q Do you think that Ms. Piparo
 12 wanted to get rid of you?
 13 A I think -- I think all of
 14 the clerks didn't like me. I told you, I
 15 was there a long time. They were getting
 16 gifts and money from all the other
 17 attorneys and I was not getting involved
 18 in this.
 19 Now, nothing was said, but
 20 the other attorneys told me that they
 21 were giving the clerks money, cash,
 22 buying them breakfast in the morning.
 23 How many times do I have to say it to
 24 you?
 25 Q And you think that's

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1 M.H. Capogrosso
 2 connected to this complaint?
 3 A I don't know.
 4 Q But you think --
 5 A I could care less about a
 6 paper clip. I think you got a bunch of
 7 idiot clerks there who need to -- you
 8 know, who didn't like me because I
 9 wasn't, you know, like I said, giving
 10 them money, giving them cash, giving them
 11 presents, buying them breakfast. I was
 12 there to do a job. I told you that
 13 repeatedly.
 14 MR. THOMPSON: All right.
 15 Ms. MacDonald, can we mark that
 16 document as Exhibit 26?
 17 (The above-referred-to
 18 e-mail was marked as Exhibit 26 for
 19 identification as of this date.)
 20 THE WITNESS: Listen. I got
 21 27 minutes left. I hope you
 22 understand that, Attorney Thompson.
 23 MR. THOMPSON: Let's take a
 24 quick break and go off the record
 25 then and talk.

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1 M.H. Capogrosso
 2 THE WITNESS: Because it's a
 3 seven hour day.
 4 MR. VIDEOGRAPHER: Okay. So
 5 the time is 4:03. We are off the
 6 record.
 7 (A short recess was taken.)
 8 MR. VIDEOGRAPHER: The time
 9 is 4:05. We are on the record.
 10 Q And, Mr. Capogrosso, while
 11 we were off the record we just had a
 12 discussion about the timing of the
 13 deposition and we agreed that we would go
 14 until there's been a full seven hours on
 15 the record: correct?
 16 A Yes, which should take us to
 17 5:23 if we don't take any breaks.
 18 Q Good.
 19 So, Mr. Capogrosso, I'm
 20 going to show you a document. Do you
 21 recognize this document?
 22 A Yes. Well, I recognize the
 23 name, Diantha.
 24 Q Have you seen it before?
 25 A Yes.

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1 M.H. Capogrosso
 2 Q And what is this document?
 3 A Some complaint that Diantha
 4 wrote about me and I'm saying the word
 5 shit. which I wasn't.
 6 Q And this document is Bates
 7 stamped DMV-0000003; correct?
 8 A Yes.
 9 Q So Ms. Fuller says that
 10 since she came back to practice at the
 11 TVB in September 2014, you would say shit
 12 whenever she passed by you --
 13 A No.
 14 Q -- is that correct?
 15 A No. I say ccsa. I say
 16 eesha.
 17 Q You said what?
 18 A Eesha, eesha. I was
 19 practicing martial -- it's just something
 20 I say to myself. I say it quietly, I say
 21 it under my breath. It was never the
 22 word shit. It was the word eesha.
 23 E-E-S-H-A. I'm saying it for a long
 24 time. It gets me motivated.
 25 Q What --

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1 M.H. Capogrosso
 2 A It's just something I say.
 3 Q What does eesha mean?
 4 A It just means something to
 5 me. It keeps me motivated. It's under
 6 my breath. It's very low. It was never
 7 the word shit. It was never directed to
 8 any person. I say it to myself. It
 9 keeps me motivated.
 10 There's no -- no prohibition
 11 against speaking to yourself. It's said
 12 quietly. It keeps me motivated. It
 13 means something to me. I'm allowed to
 14 say it. If there was a problem with it,
 15 all you had to do was tell me once, I
 16 would never say it again, but it was not
 17 the word shit and it was not directed to
 18 her.
 19 Q So, in fact, she says that
 20 she did say it was a problem. She says
 21 that on March 13, 2015 you passed by her
 22 and said shit to her and she responded --
 23 and she responded saying that you were
 24 crazy and that she was sick of you saying
 25 shit to her.

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1 M.H. Capogrosso
 2 A Well, I didn't say --
 3 Q Do you recall that
 4 conversation?
 5 A I never said that word, no.
 6 I never said the word. No, she's -- I
 7 never said the word. I told you what I
 8 said.
 9 Q Do you recall the
 10 conversation where she --
 11 A No. I do not.
 12 Q -- objected to you saying
 13 it?
 14 A No. She's verbally --
 15 verbally swearing at me. that's not
 16 appropriate. I say the word eesha and
 17 I'm allowed to say it and I'll continue
 18 saying it. There's nothing wrong with
 19 it. It means something to me.
 20 Now, if there was a problem
 21 with that --
 22 Q Okay.
 23 A -- you don't barrage me with
 24 swear words. You say Mr. Capogrosso.
 25 what are you saying, can you please tell

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1 M.H. Capogrosso
 2 me and if I -- and I would explain it to
 3 her.
 4 Q And did you --
 5 A She didn't do that. She
 6 didn't do that. What she did was a
 7 barrage of swear words, telling me I'm
 8 psycho and crazy.
 9 Now, I'm allowed to say the
 10 word because you are allowed. It's
 11 called freedom of speech.
 12 Q And when you said eesha,
 13 what does eesha mean to you?
 14 A It means something to me.
 15 Q What does it mean to you?
 16 A It just means something to
 17 me. It keeps me motivated.
 18 Q Okay. But you're saying it
 19 means something and I'm asking you what
 20 it means.
 21 A It's just a little something
 22 I say.
 23 Q And what is the meaning of
 24 the little something that you say?
 25 A It's a motivational phrase

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1 M.H. Capogrosso
 2 that I say to myself. I've been saying
 3 it forever.
 4 Q Where does it come from?
 5 A It just comes from where it
 6 comes from. I don't know where it comes
 7 from. It just comes.
 8 Q It's just a thing that you
 9 say for no reason at all?
 10 A It's a thing I say that
 11 keeps me motivated, yes.
 12 Q And you would say it
 13 whenever you walked by Ms. Fuller?
 14 A No. I would say it when I
 15 was feeling kind of tired or a little --
 16 a little fatigued because it's a
 17 fatiguing day down there. It wasn't --
 18 Q And you said --
 19 A It was before anybody. I
 20 would just be -- you know, I had a hard
 21 day, I'd just keep moving and it just
 22 keeping me motivated.
 23 Q And you see more that this
 24 is signed by Mr. Tahir as well; correct?
 25 A Yeah. I'll tell you where I

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1 M.H. Capogrosso
 2 got it from. I was training in a martial
 3 arts gym a long time ago when I was a
 4 younger guy and the instructor used to
 5 say it all the time that I was training
 6 with me at the time and it kept us
 7 motivated throughout the course
 8 seriously.
 9 So I'm not going to give you
 10 his name, a man I trained with at the
 11 time, but it was in a gym and he would
 12 say it to keep us -- and after that, you
 13 know, we were -- I picked up on it.
 14 Does it have anything to do
 15 with shit or talking to this woman who's
 16 calling me a psycho and swearing at me,
 17 no. It's something I picked up in a
 18 martial art gym a long time ago when I
 19 was training and he would say it. I
 20 never questioned him what it meant, but
 21 it kept us going.
 22 So that's where I picked it
 23 up from, but it was not the word shit and
 24 it wasn't directed to anybody.
 25 Q If this behavior were true,

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1 M.H. Capogrosso
 2 and I know you don't think it is, but if
 3 you were saying shit to another attorney
 4 every time you walked past her, would
 5 that justify your exclusion from the TVB?
 6 A I'm not going to -- I'm not
 7 going to get into hypotheticals. I don't
 8 know. I didn't -- first of all, I didn't
 9 say the word shit. Ask me what I said.
 10 Don't swear at me with a barrage of swear
 11 words and tell me I'm a psycho. Just
 12 talk to me and --
 13 Q And you --
 14 A -- I'll tell her. Like I
 15 told you, I would tell her.
 16 Q You had been warned by --
 17 A I told you. Like I told
 18 you, I would tell her.
 19 Q Mr. Capogrosso, you had been
 20 warned by the DMV that verbal abuse could
 21 get you expelled; correct?
 22 A There was no verbal abuse
 23 here, I'm sorry, there wasn't.
 24 Q I know you don't think so.
 25 but the question is had you been warned

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1 M.H. Capogrosso
 2 before that verbal abuse could get you
 3 expelled?
 4 A I saw the letter to that
 5 effect. There was no verbal abuse.
 6 Q So were you worried after
 7 this complaint from Ms. Fuller and
 8 Mr. Tahir and this incident with
 9 Ms. Fuller that you would be expelled
 10 from the TVB?
 11 A No, because there was no
 12 verbal abuse. It's called freedom of
 13 expression. There was no verbal abuse --
 14 Q So were --
 15 A -- so stop making -- there
 16 was no verbal abuse.
 17 Q Were you worried that this
 18 incident would lead to your expulsion?
 19 A I'm allowed -- you know,
 20 people pray all day. They say various
 21 prayers. I'm down at the DMV, there's
 22 guys praying. They're allowed to pray.
 23 I'm allowed to say a word to myself
 24 quietly under my breath. There was no
 25 verbal abuse.

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1 M.H. Capogrosso
 2 Q I understand.
 3 Mr. Capogrosso, but that wasn't the
 4 question. The question is were you
 5 worried that this incident would lead
 6 to --
 7 A No.
 8 Q -- the TVB to expel you?
 9 A No. I was not worried
 10 because I did not verbally abuse anybody.
 11 I was not worried. I did not verbally
 12 abuse.
 13 I'm not going to be told I
 14 can't say a word under my breath that was
 15 not the word shit and not directed to
 16 anybody.
 17 Q So I'll just note that the
 18 letter that you sent to AAG
 19 Prickett-Morgan was sent the very next
 20 day after this letter.
 21 Did you send that letter
 22 because you were worried the DMV was
 23 going to take action against you?
 24 A No. I was worried because
 25 the action with Smart. I didn't even

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1 M.H. Capogrosso
 2 realize that -- the action with Smart is
 3 what I was more concerned about.
 4 Now, listen, this, what do
 5 you call it, Diantha, she's assaulted me
 6 with a barrage and she admits to it, a
 7 barrage of verbal abuse and obscenities.
 8 She's yelling at me, cursing me out,
 9 calling me a psycho. If that's not
 10 verbal abuse, I don't know what it is.
 11 So she's verbally abusing me
 12 and she gets a pass. She's not -- she's
 13 not thrown out. That's accepted, right.
 14 She's verbally abusing me, calling me a
 15 psycho and this and that.
 16 I used the word cessa, not
 17 the word shit. That's not verbal abuse.
 18 MR. THOMPSON: So,
 19 Ms. MacDonald, if we didn't already,
 20 let's mark that letter from
 21 Ms. Fuller and Mr. Tahir as Exhibit
 22 27.
 23 (The above-referred-to memo
 24 was marked as Exhibit 27 for
 25 identification as of this date.)

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1 M.H. Capogrosso
 2 Q Mr. Capogrosso, I'm going to
 3 bring up another letter here. Do you
 4 recognize this letter?
 5 A Absolutely. That's the
 6 letter that went to your office that got
 7 lost in the mailroom for four weeks.
 8 Q Did you send this letter?
 9 A Yeah, I did.
 10 Q And this is marked P-41 in
 11 your production; correct?
 12 A Yes.
 13 MR. THOMPSON: And.
 14 Ms. MacDonald, let me ask that this
 15 letter be marked as Exhibit 28.
 16 (The above-referred-to
 17 letter was marked as Exhibit 28 for
 18 identification as of this date.)
 19 Q Mr. Capogrosso, you said
 20 this was lost in our mailroom. Can you
 21 explain what you mean by that?
 22 A I sent it on March 20. I
 23 called a couple of days later to see if
 24 you received it. They didn't receive it.
 25 I called again. A week later they told

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1 M.H. Capogrosso
 2 me it was lost in the mailroom. I called
 3 again. They said they still couldn't
 4 find it in the mailroom.
 5 About three or four weeks
 6 later after I called, eventually it was
 7 found. I don't know how that happened.
 8 I guess your office didn't want to
 9 receive it, but that's what happened.
 10 Q So, Mr. Capogrosso, who is
 11 Elizabeth Prickett-Morgan?
 12 A She's the Attorney General
 13 of New York State.
 14 Q I'm pretty sure she's an
 15 Assistant Attorney General.
 16 A I thought she was the
 17 Attorney General. She's an Assistant.
 18 right. Letitia James, right.
 19 Q So why would you send a
 20 letter to her?
 21 A Because I complained to
 22 Judge Gelbstein and when I complained to
 23 Judge Gelbstein, he laughs and giggles
 24 and tells me a spade is a spade. I'm not
 25 getting relief about the harassment of

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1 M.H. Capogrosso
 2 Smart, the constant harassment by Smart
 3 and I don't want an incident on this
 4 floor and I'm seeing what's happening.
 5 This guy, Smart, is provoking me into a
 6 fight. He gets in my face. What's the
 7 problem? Fuck you, you're the problem.
 8 Because I complained about him stealing
 9 \$80 and a fee and he's allowed to remain
 10 by Gelbstein. Vahdat's not --
 11 Q So --
 12 A Go ahead. Vahdat's not
 13 listening to me.
 14 Q Mr. Capogrosso, was
 15 Ms. Elizabeth Prickett-Morgan part of
 16 DMV?
 17 A I said let me call -- let me
 18 write a letter to the Attorney General's
 19 office, that's all I said to myself. I
 20 think that was the correspondence address
 21 when I looked you up on the website.
 22 Q So -- and so did you file
 23 this believing that Elizabeth
 24 Prickett-Morgan was the Attorney General
 25 of New York State?

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1 M.H. Capogrosso
 2 A I filed it with the Attorney
 3 General of New York State and when I
 4 looked you up on the website, that was
 5 the correspondence address that I found
 6 to correspond with.
 7 Q So --
 8 A I looked you up to send it
 9 in and they put her name there, so that's
 10 the one I used.
 11 Q So what's, you know, what's
 12 the connection between the Attorney
 13 General's office and DMV?
 14 A The Attorney General's
 15 office represented DMV in my Article 78
 16 proceeding, right.
 17 Q But hadn't --
 18 A They're the lawyers.
 19 Q Hadn't the Article 78
 20 proceeding been over for three years by
 21 this point?
 22 A Yeah, but they're the ones
 23 who put all these conditions on me, right
 24 and I had to act in a certain way, right,
 25 even though other attorneys were verbal

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1 M.H. Capogrosso
 2 abusing me is acceptable or using swear
 3 words is acceptable or calling me a
 4 psycho, Diantha Fuller, which is
 5 acceptable.
 6 So I don't want an incident.
 7 The basis of this letter is this, I don't
 8 want another incident at the TVB. I
 9 don't want anything to happen to me.
 10 right. I don't want an incident.
 11 You gave me this letter. No
 12 verbal abuse, threatening physical
 13 conduct. I'm trying to be, you know, a
 14 perfect gentleman, which is what I was.
 15 right. I'm trying to do the right thing.
 16 I'm trying to be a perfect gentleman.
 17 handle my cases, do what I have to do.
 18 I'm seeking relief here.
 19 Gelbstein, when I complain about Smart.
 20 he laughs and giggles and tells me a
 21 spade is a spade. So let me call the
 22 Attorney General's office who sent me
 23 this letter, who represented me in the
 24 Article 78, who gave me all these
 25 conditions and tell her what's going on

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1 M.H. Capogrosso
 2 down here.
 3 Q But Elizabeth
 4 Prickett-Morgan --
 5 A And your office does not
 6 seem to care. They lose it in their
 7 mailroom. They lose it they eventually
 8 find it. They don't respond to it. They
 9 don't give me any response to it and
 10 Smart approaches me in the morning on
 11 May 11.
 12 Q Elizabeth Prickett-Morgan
 13 didn't represent DMV in your case; did
 14 she?
 15 A I don't know. You would
 16 have to talk to my attorney, Chris
 17 McDonough, on this. I don't know who
 18 did.
 19 When I looked you up on
 20 the -- on Google for a correspondence
 21 address, Prickett-Morgan's name was
 22 attached to it. That's why I wrote that.
 23 Q Did you speak with an
 24 attorney about filing this letter?
 25 A No.

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1 M.H. Capogrosso
 2 Q Did you speak with
 3 Mr. McDonough?
 4 A No. Chris did tell me if
 5 you sneeze the wrong way, they're going
 6 to throw you out again.
 7 Q So I guess my question is
 8 you wrote this letter to the office that
 9 represented DMV in the case three years
 10 ago to an attorney who wasn't even on the
 11 case.
 12 Why do you think anyone
 13 would care about this letter?
 14 A I'll say it again, the
 15 Article 78 you gave me all these
 16 conditions, right, in that letter, that
 17 was from your office, no verbal abuse, no
 18 threatening of physical contact or
 19 conduct, right. That was from your
 20 office, right, from your office, the
 21 Attorney General's office. I did not
 22 deal with the Attorney General's office.
 23 Chris McDonough dealt with the Attorney
 24 General's office.
 25 I'm trying to adhere to all

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1 M.H. Capogrosso
 2 of these rules and regulations
 3 specifically put on me, on me, that I had
 4 to deal with now and I'm getting all this
 5 harassment by Smart because I reported a
 6 theft. I go to Gelbstein. Gelbstein
 7 doesn't want to hear it. He laughs and
 8 giggles, tells me a spade is a spade
 9 concerning Smart.
 10 Who else do you want me
 11 writing to? If I'm supposed to adhere to
 12 the conditions that you put on me, the
 13 Attorney General's office, I got to go to
 14 the Attorney General's office, say how do
 15 I -- what do I do in this situation?
 16 I can't adhere if I've got a
 17 security guard who doesn't want to leave
 18 me alone.
 19 Q So, Mr. Capogrosso, you
 20 testify a moment ago that you wrote this
 21 letter because you were worried that
 22 there would be an incident?
 23 A Absolutely.
 24 Q Can you tell me what you
 25 mean by that?

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1 M.H. Capogrosso
 2 A I said this guy Smart
 3 wouldn't stop. I went into detail with
 4 it and Gelbstein's giving me no
 5 protection. He's not telling this guy --
 6 or he's incapable, incompetent or
 7 complicit, I state that. Smart will get
 8 in my face, what's the problem? Fuck
 9 you, you're the problem. He gives me the
 10 sign of the cross and a spear hand. He
 11 bumps into me.
 12 Q And were you worried that
 13 this incident --
 14 A Then the incident happens.
 15 On May 11 this guys comes again. He
 16 comes, he gets in my face again. I put
 17 up my hand. I tell him to back up.
 18 Q Let me ask you.
 19 Mr. Capogrosso, when you wrote this
 20 letter were you worried that this
 21 incident would be used to justify your
 22 expulsion from the TVB?
 23 A Would I -- I saw something
 24 coming. I saw something coming. This
 25 guy Smart didn't want to stop. I don't

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1 M.H. Capogrosso
 2 know if Gelbstein -- I think Gelbstein
 3 was putting him up to it. I really
 4 believe Gelbstein was putting --
 5 Gelbstein wanted me out. I really think
 6 Gelbstein wanted me out of here and --
 7 Q And that's --
 8 A -- I think Gelbstein put
 9 Smart up to it, I really do believe that.
 10 because he didn't look at the videotape.
 11 On the morning of May 11, he was
 12 conveniently not in the DMV, just not
 13 there. He was not in the TVB, in the
 14 Brooklyn TVB conveniently.
 15 I think he put this guy
 16 Smart up to it. He wanted me out and I
 17 saw it coming and I'm seeking --
 18 Q Is that part --
 19 A -- relief. I'm seeking
 20 relief. I'm seeking for somebody to
 21 allow me just to practice law like every
 22 other lawyer.
 23 Q And is that part of why you
 24 wrote the letter?
 25 A I'm seeking relief from your

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1 M.H. Capogrosso
 2 office.
 3 Q Yes. So I understand, but
 4 the question is you believe that Judge
 5 Gelbstein was trying to get rid of you
 6 through David Smart, was that why you
 7 wrote this letter?
 8 A I want to practice law down
 9 in Brooklyn TVB. I was a good lawyer
 10 down there. I'm seeking relief.
 11 Q I understand that.
 12 A I don't know -- I don't know
 13 if Gelbstein put this guy Smart up to it.
 14 I don't know, but he --
 15 Q Did you suspect it at this
 16 time?
 17 A What's that?
 18 Q Did you suspect at this time
 19 that Judge Gelbstein was putting him up
 20 to it?
 21 A I think Gelbstein is as
 22 corrupt as they come, my personal opinion
 23 and I told you the reasons why. When
 24 you -- when you complain to a judge and
 25 that judge laughs and giggles and tells

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1 M.H. Capogrosso
 2 you a spade is a spade. I think he's
 3 corrupt and doesn't deserve to hold the
 4 office.
 5 No matter who's protecting
 6 him, I think he's corrupt and doesn't
 7 deserve to hold that office. He should
 8 have stopped the behavior.
 9 Q So the question is --
 10 A Gelbstein should have
 11 stopped this behavior and he didn't do
 12 it.
 13 Q So the question,
 14 Mr. Capogrosso, is when you wrote this
 15 letter, were you -- did you do it because
 16 you were worried that Judge Gelbstein was
 17 going to use David Smart to get you
 18 expelled?
 19 A I used it to stop the
 20 harassment. I didn't want an incident.
 21 I spelled it out very clearly. I did
 22 not --
 23 Q Mr. Capogrosso, I understand
 24 that.
 25 A I answered it. I answered

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1 M.H. Capogrosso
 2 your question. I used it because I did
 3 not want an incident. I did not --
 4 Q So Mr. Capogrosso --
 5 A I did not want an incident.
 6 Q Can I ask you to answer the
 7 question with a yes or a no, did you
 8 write this letter, in whole or in part.
 9 because you believed Judge Gelbstein was
 10 trying to get you expelled?
 11 A I wrote it because I did not
 12 want an incident. That's why I wrote it.
 13 Q Okay. But can I ask you to
 14 answer the question yes or no?
 15 A That is the question. No
 16 there's no -- that's the reason I wrote
 17 it.
 18 Q So yes -- and, again, it's a
 19 simple question, yes or no, was part of
 20 the reason you wrote this because you
 21 thought Judge Gelbstein was going to get
 22 you expelled?
 23 A I wrote it because I didn't
 24 want an incident on the floor. That's
 25 why I wrote it.

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1 M.H. Capogrosso
 2 Q Mr. Capogrosso, is there
 3 anything stopping you from giving a yes
 4 or no answer to this question?
 5 A No. That's the reason I
 6 wrote it. You're asking me why I wrote
 7 it. That's the reason. That's the only
 8 reason I wrote it. I did not want to get
 9 expelled. I didn't want an incident. I
 10 don't want to get thrown out. I wanted
 11 to stay working. I wanted to make a
 12 living. I wanted to pay bills.
 13 Q And so is the answer yes.
 14 you believed that there was going to be
 15 an incident Judge Gelbstein was going to
 16 use to expel you?
 17 A I saw this guy Smart was not
 18 backing off. He was still with the
 19 harassment. I saw it. He didn't want to
 20 stop.
 21 Q Mr. Capogrosso --
 22 A I answered your question. I
 23 wrote it because I -- I wrote -- I gave
 24 you the reasons why. I did not want an
 25 incident on this floor.

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1 M.H. Capogrosso
 2 That's the last time I'm
 3 going to answer this question.
 4 Q Well, Mr. Capogrosso, I'm
 5 going to ask you again one more time to
 6 please answer with a yes or a no. When
 7 you wrote this letter, were you worried
 8 that Judge Gelbstein was going to cause
 9 an incident to get you expelled?
 10 A I was worried that there
 11 would be an incident on the floor.
 12 That's what I was worried about.
 13 Q But you didn't know if it
 14 would be something Judge Gelbstein would
 15 cause?
 16 A Listen, I just didn't want
 17 an incident, that's it. I saw
 18 Gelbstein --
 19 Q So why is it -- but why is
 20 it so hard to get a yes or a no out of
 21 you, Mr. Capogrosso?
 22 A I told you, I've given you
 23 the reason I wrote this letter. I didn't
 24 want an incident on the floor. I did not
 25 want it. I wanted to work.

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1 M.H. Capogrosso
 2 Q Okay, but that again is not
 3 the question. Why can't you answer --
 4 A No.
 5 Q -- with a yes or a no?
 6 A I'm going to object right
 7 now. You're badgering. I gave you the
 8 reason I wrote this letter.
 9 Q All right.
 10 A You're badgering me. You've
 11 asked it seven times, eight times. I
 12 gave you my answer. I did not want an
 13 incident. I'm begging for relief. I
 14 want to work. I want to pay bills. I
 15 want to make my clients happy.
 16 Q You can object, but I just
 17 want to put on the record my question is
 18 yes or no, did you believe that when you
 19 wrote this letter that Judge Gelbstein
 20 was trying to manufacture an incident to
 21 get you expelled and you're not willing
 22 to answer that yes or no question; is
 23 that correct?
 24 A Well, I truly believe
 25 that -- I'll tell you when I truly

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1 M.H. Capogrosso
 2 believed that, when he approached me on
 3 the afternoon of May 8. On the afternoon
 4 of May 8 --
 5 Q I'm not asking about that.
 6 A Well, on --
 7 Q I'm asking you about --
 8 A Well, on that date when he
 9 told me can't you go practice somewhere
 10 else, I saw what you wrote about me. I'm
 11 implicit, incapable and incompetent. I
 12 believe he wanted me out. At that point
 13 in time, yes.
 14 And when I wrote this
 15 letter, all I wanted was for the
 16 harassment to stop, but when he
 17 approached me on May 8 and told me can't
 18 you go practice someplace else and then
 19 on May 11 Smart approaches me, yes, then
 20 I knew he wanted me out.
 21 Q I'm not asking about that.
 22 I'm asking about now when you wrote this
 23 letter.
 24 A When I wrote this letter, I
 25 just wanted the harassment to stop for

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1 M.H. Capogrosso
 2 the tenth time.
 3 Q So can you give me a yes or
 4 a no answer to the question?
 5 A I don't recall what I
 6 thought. I wanted the harassment just to
 7 stop, that's what I wanted. I wanted to
 8 work. I didn't want defendant Gelbstein
 9 to laugh and giggle at me and tell me a
 10 spade is a spade. I did not want that.
 11 Q All right.
 12 A I wanted to stop the
 13 harassment.
 14 Q You've once again refused to
 15 answer yes or no and I'm just going to
 16 let you know and I'm going to put on the
 17 record that we are going to go back and
 18 we are going to have to consider whether
 19 to file a motion to compel.
 20 In the meantime, let's move
 21 on.
 22 MS. REPORTER: You know
 23 what, if you still have an hour left,
 24 I need a five minute break. I'm at
 25 350 pages --

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1 M.H. Capogrosso
 2 MR. THOMPSON: Ms.
 3 MacDonald --
 4 MS. REPORTER: Yes. Let's
 5 take a five minute break.
 6 MR. THOMPSON: Sure. That's
 7 fine. We'll be back at 4:33.
 8 MR. VIDEOGRAPHER: The time
 9 is 4:28. We are off the record.
 10 (A short recess was taken.)
 11 MR. VIDEOGRAPHER: The time
 12 is 4:33. We are on the record.
 13 Q Mr. Capogrosso, you still
 14 see that we have Exhibit 28 up?
 15 A Yes.
 16 MR. THOMPSON: And,
 17 Ms. MacDonald, in case we didn't mark
 18 it as Exhibit 28, let's please do
 19 that.
 20 Q You write in this letter
 21 that upon completion of the anger
 22 management course you were allowed to
 23 practice law in all DMV courts on an
 24 equal and unbiased standing with all
 25 other attorneys in the DMV; is that

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1 M.H. Capogrosso
 2 correct?
 3 A That was my assumption, yes.
 4 Q You say it was your
 5 assumption. What do you mean by that?
 6 A I'm a lawyer. I'm licensed
 7 in the State of New York. I should be
 8 treated like every other lawyer. I see
 9 no reason why I shouldn't be. I should
 10 be held to the same standard as every
 11 other lawyer practicing, no different. I
 12 took my course that I needed to take. I
 13 should be held on the same standard as
 14 every other lawyer.
 15 Q But, in fact, you weren't
 16 quite on the same standing because you
 17 had been warned that any further incident
 18 would lead to your expulsion; isn't that
 19 true?
 20 A Well, that was an improper
 21 warning in my opinion. I should be
 22 treated like any other lawyer, any other
 23 lawyer.
 24 Q So why was it improper for
 25 DMV to warn you that further incidents

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1 M.H. Capogrosso
 2 would lead to an expulsion?
 3 A Well, I don't know why they
 4 threw that letter to me. Like I said,
 5 they threw it at me two days before I was
 6 to go back to the DMV. I agreed to
 7 nothing but to take an anger management
 8 course, that's it.
 9 Q Well, once again --
 10 A I took the course. I should
 11 be treated like every other lawyer, not
 12 on a special, you know, special -- I
 13 should be treated like every other
 14 lawyer. That's all I agreed to was take
 15 a course.
 16 I wouldn't have agreed to
 17 anything else if I knew this letter was
 18 going to be thrown at me.
 19 Q Mr. Capogrosso, you write
 20 that "On numerous occasions your security
 21 guard Dave Sparks told me to go F
 22 myself."
 23 A I didn't know his name at
 24 that point. It's Smart, not Sparks. I
 25 didn't know his last name.

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1 M.H. Capogrosso
 2 Q How did you not know his
 3 last name at this point?
 4 A I didn't know it.
 5 Q You had been interacting
 6 with him for years you said.
 7 A We all knew him by David. I
 8 never talked to him about his last name.
 9 I know people said S Smart something or
 10 Smarks or something. I thought it was
 11 Sparks.
 12 I knew him -- I knew him as
 13 the security guard, that's it. I know
 14 his first name was David.
 15 Q When you --
 16 A That's what I knew.
 17 Q When you write,
 18 Mr. Capogrosso, when you write "Will
 19 provide proof upon request," what proof
 20 would you have provided?
 21 A I sent you all my letters,
 22 all my -- all the complaints I filed with
 23 Gelbstein.
 24 Q So the proof would have been
 25 your own letters to Judge Gelbstein?

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1 M.H. Capogrosso
 2 A Yes and my testimony. The
 3 fact that there was a video --
 4 Q Okay.
 5 A That I stated to Gelbstein
 6 the man pushed me from behind in June of
 7 2012. They stole money from me.
 8 Q And the same question for
 9 item number 2 when you talk about
 10 instances where Sparks redirected other
 11 clients who had come looking for you to
 12 other attorneys or interfered with his
 13 conversations, the proof there would have
 14 been your statements as well?
 15 A Yeah. I had an affidavit I
 16 filed with -- I think I sent it to you
 17 also, yes and I saw him doing it.
 18 Q So here on page 2 you see
 19 and I'm going to highlight your
 20 statement.
 21 A Yeah. Go ahead.
 22 Q "I've made numerous
 23 complaints to Judge Gelbstein. His
 24 response has been a spade is a spade.
 25 His words not mine. He laughs and

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1 M.H. Capogrosso
 2 giggles."
 3 A That's true. That's
 4 absolutely a true statement, absolutely
 5 true.
 6 Q Well, he denied it
 7 yesterday; didn't he?
 8 A It's an absolutely true
 9 statement. He took no action in response
 10 to these. He knew what I had to go
 11 through back in 2011 with Yaakov Brody
 12 and that incident.
 13 Q Mr. Capogrosso, that's not
 14 the question.
 15 A He took no action --
 16 Q The question --
 17 A -- to respond to this.
 18 Q Sir, the question is he
 19 denies it; correct?
 20 A I don't know if he denied
 21 it. That an absolutely true statement.
 22 That's what he said to me.
 23 Q Were you not at the
 24 deposition yesterday when he denied it?
 25 A I'm sure he denied it at the

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1 M.H. Capogrosso
 2 deposition, but that's what he said to me
 3 this man.
 4 Q So what can you tell me
 5 about the conversation in which he made
 6 that statement allegedly?
 7 A I said can you tell this guy
 8 to leave me alone, Smart and now I know
 9 his name is David. Now I know his name
 10 is Smart. I don't want an incident on
 11 this floor. I don't want anything to
 12 happen. I want to practice law. I want
 13 to make money. I want to make my clients
 14 happy. I said can't you stop Smart from
 15 doing this. And three inches from my
 16 face what's the problem? Fuck you.
 17 you're the problem. He laughs and
 18 giggles at me and tells me a spade is a
 19 spade.
 20 Q So when was this --
 21 A It happened outside of his
 22 chamber door one day. He's walking. I
 23 said judge, I got to talk to you for a
 24 minute. This guy doesn't want to stop.
 25 Can you tell him to leave me alone? What

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1 M.H. Capogrosso
 2 else do I need to do as a lawyer to tell
 3 a judge to have a security guard leave a
 4 hard working attorney alone and all he
 5 does this judge is laugh and giggle at me
 6 and tell me a spade is a spade.
 7 Q So, Mr. Capogrosso, when was
 8 this conversation in which he said this?
 9 A Right before I wrote this
 10 letter. After he said that to me, I said
 11 I had enough. I said I had enough with
 12 this guy. Not only is he having lunch
 13 with ticket brokers, pleading people
 14 guilty, telling me he doesn't know what
 15 these ticket brokers do for a living, now
 16 he's telling me a spade is a spade and he
 17 laughs and giggles.
 18 This guy should not be on
 19 the bench.
 20 Q And so it's your testimony
 21 that he said this shortly before you
 22 filed the letter?
 23 A Absolutely. When he said
 24 that to me, I said that's enough. I got
 25 to get --

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1 M.H. Capogrosso
 2 Q So you --
 3 A I have no protection down
 4 here from this judge whatsoever, none.
 5 Q So in March of 2015?
 6 A Yeah. That's when he said
 7 it to me. I wrote the letter. I'm
 8 seeking relief. I don't want an incident
 9 on this floor. Maybe your office could
 10 help me.
 11 What your office does is
 12 they lose the -- they lose it in the
 13 mailroom.
 14 Q And what is -- what do you
 15 think a spade is a spade means?
 16 A Mr. Smart's a black man.
 17 What I believe is that this Judge
 18 Gelbstein is as prejudiced and biased as
 19 they come because that's what he said to
 20 me and Mr. --
 21 Q And what's your basis for
 22 that belief?
 23 A Mr. Smart is a black man and
 24 he was making fun of Mr. Smart's, um,
 25 Mr. Smart. He's making fun of Mr. Smart.

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1 M.H. Capogrosso
 2 Now, I've dealt with all
 3 types of clients down there, all types of
 4 clients, all different nationalities,
 5 races. Not one, not one client made a
 6 complaint against me that I made an
 7 offensive or anti-Semitic or racist
 8 remark.
 9 But this judge, if you want
 10 to call him a judge. Gelbstein, laughs
 11 and giggles and tells me a spade is a
 12 spade.
 13 Q Do you think he could have
 14 been talking about you when he said a
 15 spade is a spade?
 16 A Absolutely not. I'm
 17 complaining about Smart and he laughs and
 18 giggles. Why would he call me a spade?
 19 Why would he call me a spade?
 20 Q I don't know. You tell me.
 21 A I don't know why. I'm
 22 talking about Smart at this point. I'm
 23 complaining to him about Smart, that he
 24 gave me the sign of a cross and a spear
 25 hand and now he's getting -- and now he

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1 M.H. Capogrosso
 2 doesn't want to stop with the harassment.
 3 Q Can I ask, what is a spear
 4 hand?
 5 A (Indicating). It's
 6 something that can be very deadly. It's
 7 a straight right hand like this
 8 (indicating). Pointed right at somebody.
 9 you can actually take a guy's eye out
 10 with it if you do it right.
 11 Q Can you make a spear hand
 12 and poke somebody's eye out?
 13 A Oh, absolutely. Would I,
 14 no. Could I, yes, if I had to. If I
 15 had, there's a guy with a knife or a gun
 16 at me, absolutely. Coming at me with a
 17 knife, absolutely I would do it in a
 18 heartbeat.
 19 Q And --
 20 A I do whatever I can to avoid
 21 that situation.
 22 Q And does Mr. Smart practice
 23 any martial art that uses a spear hand to
 24 your knowledge?
 25 A I have no idea. I'm telling

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1 M.H. Capogrosso
 2 you what he did. He directed his hand
 3 directly at me like this (indicating).
 4 stood up and gave me the sign of a cross.
 5 Q So let me ask you, if you
 6 were raising -- if you had all these
 7 concerns about Judge Gelbstein, you know.
 8 Tanya Rabinovich having lunch with Jewish
 9 ticket brokers, adjourning cases,
 10 entering guilty pleas, why didn't you put
 11 any of that stuff in this letter?
 12 A In this letter?
 13 Q Yes.
 14 A I only cared about me and
 15 working, seriously. You know, how you
 16 make your living, I don't care what you
 17 do. I don't get involved in other
 18 people's businesses, I really don't. You
 19 want to be a corrupt judge, be a corrupt
 20 judge. You want to be a taxicab driver,
 21 be a taxicab driver, God bless. You want
 22 to be a -- you want to work at a strip
 23 club as a stripper, be a stripper. I
 24 don't care. You want to be a lawyer, be
 25 a lawyer, but be straight.

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1 M.H. Capogrosso
 2 I care about me and making
 3 my living. If you want to be a corrupt
 4 judge, be a corrupt judge. I don't want
 5 to get involved with it. I just want to
 6 do --
 7 Q So I understand that --
 8 A I want to do my job.
 9 Q -- but the question is if
 10 you were complaining about Judge
 11 Gelbstein, why not include that in this
 12 letter?
 13 A Because I cared about me, me
 14 keeping my job. That's what I cared
 15 about, for me to keep -- I don't care
 16 what Judge Gelbstein does. If he wants
 17 to make his living -- make a living on
 18 the side working with ticket brokers, go
 19 right ahead and do it. I could care
 20 less. Do what you want to do. You want
 21 to be a corrupt judge --
 22 Q Were you --
 23 A -- be a corrupt judge. What
 24 I care about --
 25 Q Were you worried that you

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1 M.H. Capogrosso
 2 would lose your job?
 3 A I was worried about that I
 4 wasn't -- that there was going to be an
 5 incident on that floor with this guy
 6 Smart and I wanted to keep working and
 7 paying bills and representing my clients.
 8 Q Let me ask you, you write
 9 "I" -- you write "I do not seek to
 10 litigate, but I will if I have to." What
 11 lawsuit would you have filed?
 12 A This one. I don't want to
 13 get thrown out again. I don't want to
 14 leave. I don't want to leave the
 15 Brooklyn TVB. I don't want to. I want
 16 to work. I want the harassment to stop.
 17 I don't want Gelbstein to laugh and
 18 giggle at me. I want him to put an end
 19 to it.
 20 I want your office to maybe
 21 put an end to it so I can get up in the
 22 morning and go make a living.
 23 Q And you write "Please take
 24 any and all action to expedite and
 25 resolve issues." but you don't say what

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1 M.H. Capogrosso
 2 that action would be. What did you
 3 expect Ms. Prickett-Morgan to do?
 4 A I don't know. How about
 5 respond to the letter? I was told to go
 6 back to the DMV, I was allowed to, right.
 7 I didn't expect to have all this
 8 harassment thrown at me when I went back,
 9 I did not.
 10 We entered into a
 11 stipulation agreement, right. I was
 12 allowed to go back. Well, give me the
 13 chance to practice law, practice it
 14 properly without the harassment. Live up
 15 to your side of the bargain. You allowed
 16 me back. I took an anger management
 17 course. I hired a lawyer. It cost me
 18 \$10,000 in total.
 19 I did my part of the story.
 20 Live up to your part. Put an end to this
 21 harassment so I can make my living down
 22 there and your office lost my complaint
 23 in your mailroom for about three to four
 24 weeks.
 25 Q Was it our job --

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1 M.H. Capogrosso
 2 A Live up to your part.
 3 Q Was it our office's job to
 4 take care of your complaint?
 5 A Listen, no -- I don't know.
 6 You tell me. You're the Attorney
 7 General.
 8 Q No is what I would tell you.
 9 A All right. Fine.
 10 Q This is --
 11 A Fine. So you sent the
 12 complaint back to Gelbstein, nobody wants
 13 to hear it, so I have no relief. There's
 14 no relief being afforded to me. I got a
 15 judge who laughs and giggles. The
 16 Attorney General doesn't want to get
 17 involved, doesn't even respond to it, to
 18 my letter. She could have responded and
 19 said this is not our job, it's not.
 20 I make complaints. I called
 21 the grievance. Nobody wants to listen.
 22 That's what I did.
 23 You don't want to respond to
 24 the letter, don't respond. It's not your
 25 job, it's not your job. You don't want

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1 M.H. Capogrosso
 2 to control the actions of the DMV, you
 3 don't have any control over it, fine.
 4 Q Mr. Capogrosso, you
 5 represented in your complaint and in your
 6 interrogatory responses that later on
 7 Judge Gelbstein mentioned this letter to
 8 you; is that correct?
 9 A Absolutely, May 8. May 8.
 10 Q And can you tell me what
 11 happened?
 12 A He approaches me in the
 13 presence of Danielle Calvo. I think
 14 Calvo was there. He said can't you go --
 15 can't you go practice somewhere else? I
 16 saw what you wrote about me, I'm
 17 complicit, incapable and incompetent.
 18 May 8. Friday afternoon.
 19 May 11, he's conveniently
 20 not in the Brooklyn TVB.
 21 Q And he just came up and said
 22 that out of nowhere?
 23 A I -- yeah. He walks -- he
 24 walks up to me. He says can't you go
 25 practice someplace else? I saw what you

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1 M.H. Capogrosso
 2 wrote about me. I'm complicit, incapable
 3 and incompetent.
 4 Q And what did you say?
 5 A I said no. I cannot. I have
 6 too many clients. I cannot, my exact
 7 words to him, I cannot. I have too many
 8 clients who depend on me. I had 850
 9 clients on my docket at that point, 850.
 10 How do I just pick up and leave?
 11 Q And did anyone witness this
 12 statement by Mr. Gelbstein?
 13 A I think Calvo was there. I
 14 believe Calvo was there. That's what I
 15 wrote in -- Calvo I believe was there.
 16 yes.
 17 Q And is this statement by
 18 Mr. Gelbstein documented in any way?
 19 A I think I wrote it in my
 20 complaint, didn't I?
 21 Q Yes. You wrote it in your
 22 complaint, but is there any contemporary
 23 documentation of this statement?
 24 A Well, I wrote it in my
 25 complaint. Contemporary documentation?

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1 M.H. Capogrosso
 2 That's what he said to me. That's what
 3 the man said to me on May 8.
 4 On May 11 he's not in the
 5 DMV. Smart approaches me, creates this
 6 incident. He loses the videotape.
 7 doesn't keep it. Calvo doesn't even view
 8 the videotape.
 9 Q So --
 10 A Traschen doesn't view the
 11 videotape and I'm thrown out.
 12 Q Mr. Capogrosso, is it
 13 correct to say that the only evidence of
 14 this statement is your complaint which
 15 you filed three years later?
 16 A That's what happened.
 17 That's what he said to me. I remember
 18 it.
 19 Q So yes?
 20 A I remember that statement as
 21 if it was yesterday. That's exactly what
 22 this man said to me, can't you go
 23 practice somewhere else? I saw what you
 24 wrote about me, I'm complicit, incapable
 25 and incompetent. I'll remember it to the

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1 M.H. Capogrosso
 2 day I die. That's what he said to me.
 3 Q But Mr. Capogrosso that's
 4 not the question. The question is is the
 5 only evidence of this statement your
 6 complaint three years later, yes or no?
 7 A I took notes of that. I
 8 took -- I took notes of a lot of stuff
 9 that happened.
 10 Q Well, I don't think you've
 11 produced those notes; have you?
 12 A That note, no, but I wrote
 13 down a lot of these things that happened.
 14 Q So why didn't you produce
 15 them?
 16 A Well, because they're my
 17 notes.
 18 Q Don't you think they would
 19 be relevant and --
 20 A They're my notes. I
 21 expressed my notes in my complaint.
 22 Q Do you still have these
 23 notes?
 24 A I don't know. I'd have to
 25 go look at them. I expressed my notes in

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1 M.H. Capogrosso
 2 my complaint.
 3 Q Did you look through your
 4 notes in responding to our document
 5 requests?
 6 A I looked through everything.
 7 Q And so why did you decide
 8 not to produce them?
 9 A I have notes that I made
 10 with respect to my complaint. While
 11 these things were happening, I was
 12 taking -- I took down notes, yes.
 13 Q And don't you think those
 14 notes would be relevant to the case?
 15 A I don't know. No, it was
 16 expressed in my complaint. Everything
 17 that was in my notes that I needed to say
 18 I stated in my complaint.
 19 Q So were these notes that you
 20 made in 2015 at the time or were these
 21 notes that you made in 2018 when you were
 22 writing your complaint?
 23 A 2015. Right after all this
 24 stuff happened, I started taking notes of
 25 everything that happened, okay. I said

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1 M.H. Capogrosso
 2 this is not right. What happened here is
 3 not right.
 4 Q So Mr. Capogrosso, is it
 5 your testimony that you had notes from
 6 2015 that are contemporaneous to these
 7 events and you didn't produce them?
 8 A I produced them in my
 9 complaint. Whether I still have them, I
 10 don't know. I don't think I do.
 11 Q Did you destroy them?
 12 A I put them in my complaint,
 13 yes.
 14 Q So yes, you destroyed them?
 15 A I don't know if I still have
 16 them or not. I don't think I have them.
 17 no. I don't know.
 18 Q So then what happened to
 19 them?
 20 A I expressed them in my
 21 complaint.
 22 Q So you wrote your complaint
 23 and then you destroyed the documents that
 24 it was based on; is that correct?
 25 A I don't know. I don't

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1 M.H. Capogrosso
 2 recall if I destroyed them or not. I
 3 don't know if I still have them.
 4 Q Can I ask you to --
 5 A I know I expressed
 6 everything in my complaint.
 7 Q Can I ask you to make a
 8 search for those notes now and produce
 9 them if you have them?
 10 A Right at this moment in
 11 time, no.
 12 Q I mean no, now we are in the
 13 deposition, but can I ask you before the
 14 close of discovery on Monday to look
 15 through what you have, see if you have
 16 those notes and produce them? This is --
 17 please treat this as a formal request.
 18 We can make that request in writing if
 19 you'd like, but we are requesting those
 20 notes and others.
 21 A For the notes that I made,
 22 I'll see if I have notes. I don't know
 23 if they're dated. I know I wrote a lot
 24 of stuff down while this was happening.
 25 but everything that happened I expressed

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1 M.H. Capogrosso
 2 in my complaint.
 3 Q And any other notes that are
 4 relevant to this case.
 5 A If I have them -- if I have
 6 it, I will produce it. But I know I did
 7 take notes, I did use those notes to
 8 write my complaint, I did do that.
 9 Q And if you don't have those
 10 notes now, what happened to them?
 11 A I don't recall.
 12 Q You don't recall? They'd
 13 just be gone?
 14 A I don't know. I don't --
 15 there's a lot of paperwork involved. I
 16 don't know.
 17 Q All right. Let's -- let me
 18 put up a new document. Do you see this
 19 document?
 20 A Well, let me see the bottom
 21 of it, see who wrote it, then I'll
 22 remember it more.
 23 Q Sure.
 24 A Tahir, yeah.
 25 Q Do you recognize this

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1 M.H. Capogrosso
 2 document?
 3 A Yeah. It's about Tahir
 4 saying I used the word shit. I never
 5 used the word shit ever. I used the word
 6 eesha. I told you that.
 7 Q And what is this document?
 8 A This is a complaint by
 9 Tahir.
 10 Q And this is marked --
 11 A Which I never got an
 12 opportunity to respond to or supply an
 13 affidavit in relation.
 14 Q And Mr. Capogrosso this is
 15 Bates stamped DMV-0000016; correct?
 16 A Yes.
 17 Q Mr. Tahir wrote that you got
 18 into an argument about the placement of
 19 his bag; is that correct?
 20 A When I came back -- no.
 21 This is what happened here. When you --
 22 Q What happened?
 23 A Well, in this little
 24 attorneys' room that we got in DMV, I
 25 said it's about six to eight feet long,

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1 M.H. Capogrosso
 2 five feet wide. There's a chair in the
 3 back, a chair in the back, one chair,
 4 otherwise there's two benches.
 5 Now, all the attorneys, I
 6 don't know why they can't do this, but
 7 they put their bags on top of -- on top
 8 of the benches. There's no place to sit
 9 and then there's a chair in the back.
 10 There's a chair in the back.
 11 Now, Tahir thinks this is
 12 his chair and only he can sit in it. If
 13 you sit in it, he gets all upset. It's
 14 only his chair. He's the only person
 15 allowed to sit in it. I don't believe in
 16 that. Anybody can sit in a chair in the
 17 attorneys' room. But he believes because
 18 he's the senior attorney there, the
 19 oldest guy, it's his chair, don't touch
 20 it, don't sit on it.
 21 On that day, on May 5, I
 22 walk in the attorney room. I got up and
 23 I'm getting my coat or I'm getting
 24 something and I get a phone call from a
 25 client, so I always answer the phone call

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1 M.H. Capogrosso
 2 right away from the client because
 3 they're concerned about their license,
 4 right.
 5 I sit on the chair. He
 6 comes back. Now, there's nothing on the
 7 chair. The chair is empty. It's a blank
 8 chair. There's nothing on the chair. I
 9 sit on the chair to answer the phone
 10 call. I'm a little tired at the end of
 11 the day, right. I'm tired, I want to sit
 12 down and all the benches have the bags
 13 from the attorneys on it. You can't sit
 14 on the bench.
 15 Tahir comes in and goes
 16 crazy. Why are you sitting on my chair?
 17 This is my chair. I mean he had
 18 conflicts with other attorneys on this,
 19 too. Nobody's allowed to -- I sit where
 20 I want to sit. You don't own the chair.
 21 This is a chair in the attorneys' room.
 22 You don't own it.
 23 And that's what caused this
 24 incident on May 5, I sat on a chair in an
 25 attorneys' room that only Tahir could sit

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1 M.H. Capogrosso
 2 on. That's what happened.
 3 Q And then what happened?
 4 What did he do? What did you say?
 5 A He started screaming and
 6 yelling at me. He said I used the word
 7 shit. Actually moved his bag on the
 8 other bench. He was looking at me. He
 9 came in and yelled at me don't touch my
 10 bag. Whose is this? I said I'm going to
 11 move my bag.
 12 He mentioned the chair. I
 13 was sitting on his chair. He was upset
 14 that I was sitting on his chair. That
 15 was the whole deal with this thing. And
 16 he tells me not to touch his stuff.
 17 Well, I'm sorry, I'm allowed to sit in a
 18 chair. You don't own the chair. That's
 19 what happened here.
 20 Q Did you call him shit?
 21 A I said eesha. I don't use
 22 the word shit. This man uses the word
 23 mouther fucker like you don't believe.
 24 Ever other time he speaks, it's mother
 25 fucker this, mother fucker that. That's

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1 M.H. Capogrosso
 2 acceptable with this attorney to use
 3 those words.
 4 I said the word eesha. I
 5 never said the word shit.
 6 Q Mr. Tahir writes that you
 7 think -- he thinks that you thought that
 8 he was, quote, "an easy and soft target."
 9 Did you think that?
 10 A What do you mean, in a
 11 boxing gym? In a box -- I mean an easy
 12 and soft target for what?
 13 Q Harassment.
 14 A And easy and soft target?
 15 I'm there to do a job. I'm not there to
 16 harass a lawyer. I sat in his chair.
 17 Another paranoid lawyer, an insecure
 18 lawyer. It's his insecurities, not mine,
 19 his insecurities.
 20 I'm a -- he's a soft target
 21 for what? What am I going -- what am I
 22 in a boxing ring with this guy? We are
 23 in a lawyers' -- we are in a lawyers'
 24 room. We are in a courthouse. He's a
 25 soft target? I don't even know what that

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1 M.H. Capogrosso
 2 means.
 3 Q Is Mr. Tahir a big guy or
 4 was he?
 5 A He's a frail guy. He drank
 6 a lot. I was over his apartment. He
 7 drinks like a fish. He drank a ton.
 8 Q Was he tall, short, fat,
 9 skinny --
 10 A He was thin as a rail.
 11 Q -- muscular?
 12 A He was thin as a rail.
 13 Q How tall was he?
 14 A He was about my height, but
 15 he was and he liked to drink. He drank a
 16 ton.
 17 MR. THOMPSON: All right.
 18 Ms. MacDonald, let me ask you to --
 19 A Before I drove him home, he
 20 used to go to the liquor store to pick up
 21 liquor.
 22 Q Was Mr. Tahir a practicing
 23 Muslim?
 24 A I don't know. I think he
 25 was Muslim, but I don't know if he was

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1 M.H. Capogrosso
 2 practicing. I think he was a Muslim.
 3 MR. THOMPSON: Ms.
 4 MacDonald, if I can ask you in case I
 5 didn't already to -- (inaudible)
 6 MS. REPORTER: I don't know
 7 if you were speaking. You completely
 8 cut out.
 9 MR. THOMPSON: In case you
 10 didn't already mark it, I was asking
 11 you to mark that document for
 12 Mr. Tahir as Exhibit 29.
 13 (The above-referred-to
 14 statement was marked as Exhibit 29
 15 for identification as of this date.)
 16 Q Mr. Capogrosso, can you see
 17 the document on the screen now?
 18 A Yes. That's from Beer,
 19 right, on May 5?
 20 Q Do you recognize this
 21 document?
 22 A You have to scroll down.
 23 Let me read through it. I've seen this
 24 document. You're going too fast. Can
 25 you go up, please? You have to let me

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1 M.H. Capogrosso
 2 read it. You're going too fast.
 3 I have this. You're not
 4 allowing me to refer to the documents I
 5 have, so I have to read it, but you have
 6 to -- you have to direct me to what you
 7 want me to read.
 8 I do reco -- I do recognize
 9 the document.
 10 Q Okay. And what is the
 11 document?
 12 A I think it was -- can you
 13 see who's the signature on the bottom?
 14 Is there a signature on it?
 15 It's some type of affidavit
 16 against me. All right. It's some type
 17 of -- it's from Michael beer. All right.
 18 Fine.
 19 Q And this document's marked
 20 DMV-0000017; correct?
 21 A Yeah.
 22 MR. THOMPSON: And,
 23 Ms. McDonough, let me ask you to mark
 24 this as Exhibit 31 and yes, I know we
 25 just jumped one. Sorry about that.

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1 M.H. Capogrosso
 2 (The above-referred-to
 3 statement was marked as Exhibit 31
 4 for identification as of this date.)
 5 Q Who is Michael Beer?
 6 A He's an attorney down there.
 7 Q Did you have a good
 8 relationship?
 9 A I mean I knew him. I didn't
 10 really talk to him. I didn't talk to a
 11 lot of the lawyers. I was there to do my
 12 job, that's it.
 13 Q Mr. Beer writes on May 5,
 14 2015, which is the same day as the
 15 incident with Mr. Tahir, that he came
 16 into the attorneys' room and that as soon
 17 as he did, "I was verbally accosted with
 18 the demand of don't touch my fucking
 19 stuff, don't stuff my fucking stuff."
 20 A No. I never said that. I
 21 have never said that.
 22 Q You never said that?
 23 A No.
 24 Q Is he lying?
 25 A On that statement, yes. I

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1 M.H. Capogrosso
 2 would never say that. I always carried
 3 my stuff with me for the most part.
 4 Q He says that he didn't touch
 5 your stuff. You asked about a camera.
 6 Why did you ask about a camera?
 7 A There was no camera. There
 8 was no camera, no. I did accuse Smart of
 9 moving -- of tampering with my files. I
 10 did do that and he was doing it because I
 11 saw them moved when I left them in the
 12 attorneys' room and I saw him go in there
 13 and do it. I did see that.
 14 But I never said anything
 15 about putting a camera in the attorneys'
 16 room and I never accused Beer. Beer was
 17 actually a very nice lawyer. He was a
 18 nice guy.
 19 Q He says that you said piece
 20 of shit, piece of shit at him, which he
 21 heard you state to others many times in
 22 the past. Did you say that --
 23 A No.
 24 Q -- on May 5?
 25 A No. I never --

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1 M.H. Capogrosso
 2 Q No?
 3 A I never used the word shit.
 4 If these attorneys would have just asked
 5 me, I would have told them like I'm
 6 telling you what I was saying. I said
 7 cesha. It was never the word shit.
 8 Now if these attorneys would
 9 have just asked me what I was saying
 10 under my breath, which I'm allowed to do,
 11 I would have explained it to them.
 12 Q So Mr. Beer writes that he
 13 did ask you. He said "Excuse me, what
 14 did you just say to me" and you responded
 15 that "It didn't relate to you. I'm angry
 16 at a judge."
 17 Do you remember that?
 18 A I might have been angry at a
 19 judge's decision. A lot of times we got
 20 angry at judge's decisions. I really
 21 felt -- you know, I really was very
 22 passionate about arguing and winning
 23 cases for my clients, I was.
 24 Sometimes when I thought a
 25 judge really just did a bad job, I was

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1 M.H. Capogrosso
 2 angry, yeah. I would get angry if a
 3 judge made a bad decision, I really
 4 would.
 5 But if a judge made a good
 6 decision and the cop, you know, did
 7 everything right on the case, it was
 8 fine, we all accepted it. But when I
 9 thought a guy --
 10 Q So did you --
 11 A -- didn't get a fair chance
 12 in a courtroom and no matter what you
 13 did, I would get angry, of course I
 14 would. I really took a very liking to my
 15 clients and I felt badly that they lost.
 16 I thought they should have won it, so
 17 yeah, I was angry.
 18 But did I say anything to
 19 him, no, I didn't say anything to the
 20 man.
 21 Q And you didn't say piece of
 22 shit, piece of shit?
 23 A No, not to him. Not to him.
 24 not to him.
 25 Q Mr. Beer writes -- Mr. Beer

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1 M.H. Capogrosso
 2 writes later that he left the room and
 3 that the issue of don't touch my fucking
 4 stuff was an ongoing issue all day.
 5 Quote, "And I witnessed Mario Capogrosso
 6 yelling at Mr. Tahir to not touch his
 7 fucking stuff."
 8 Does that refresh your
 9 recollection at all about --
 10 A No.
 11 Q -- what happened on May 5?
 12 A No. What I remember on
 13 May 5 was one thing. I walked in that
 14 attorneys' room to sit on a chair. It
 15 was at the end of the day, to sit on a
 16 chair or maybe I placed my bag on the
 17 chair and Tahir said this is my chair and
 18 get your stuff off it or don't sit on it.
 19 but I know it involved Tahir's chair that
 20 nobody was allowed to touch.
 21 And maybe I put my bag on
 22 the chair for a minute or I sat on the
 23 chair for a minute or something to that
 24 effect, but that was it and Tahir thought
 25 that this chair, he owned the chair in

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1 M.H. Capogrosso
 2 the room.
 3 Q Mr. Beer writes --
 4 A That's what happened on May
 5 5.
 6 Q So you never had an
 7 altercation with Mr. Beer?
 8 A Not that I recall, no. Beer
 9 was a nice guy. He was a really nice
 10 guy.
 11 Q So why -- so you said that
 12 he was lying about this. Why would
 13 Mr. Beer lie?
 14 A I don't know why. I know
 15 what happened that day. I know exactly
 16 what happened. There was a chair there.
 17 I wanted to sit down in the chair. I
 18 wanted to make a phone call. I was
 19 tired. Maybe I stood up and put my bag
 20 on the chair because there was nowhere
 21 else to put the bag. Maybe I was still
 22 on the phone and Tahir comes in and gets
 23 all upset and maybe Tahir was trying to
 24 move my bag. I don't know, off his
 25 personal chair because nobody was allowed

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1 M.H. Capogrosso
 2 to touch his chair.
 3 And this is an attorneys'
 4 room for all the attorneys, but nobody's
 5 allowed to touch his chair or put
 6 anything on his chair. So maybe I told
 7 Tahir leave my bag alone.
 8 Q Did you --
 9 A But did I use those words.
 10 no, I never said that, no.
 11 Q Mr. Beer writes that you
 12 started ranting that guy, alluding to
 13 Gelbstein, threw out Chuck Willinger and
 14 now Chuck Willinger is dead. What does
 15 that mean?
 16 A Well, Willinger was an
 17 attorney when I first started. I have to
 18 read it. Can you go back up?
 19 Q Sure.
 20 A Go back up.
 21 Willinger was an attorney.
 22 I never said for the judge to put a gun
 23 to his head. Willinger was a guy that
 24 was a lawyer down at the Brooklyn TVB
 25 when I first got there and he had some

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1 M.H. Capogrosso
 2 issues, Mr. Willinger. To say the least,
 3 he had some issues and he wasn't -- he
 4 was -- as I understand it, eventually we
 5 became friends me and him, as I
 6 understand he had issues with drugs, a
 7 lot of drugs.
 8 And he was making money at
 9 the start, but then he got involved with
 10 cocaine and he winds up committing
 11 suicide. They found him dead on his bed
 12 one day.
 13 Q Sorry.
 14 A He wasn't showing up for
 15 cases because he was on so much drugs.
 16 He wasn't showing up and Gelbstein threw
 17 him out because he wasn't showing up for
 18 some reason. I don't know why he threw
 19 the guy out of the DMV.
 20 And he never gave the guy a
 21 hearing. Never gave him an opportunity
 22 to at least, you know, give him a chance.
 23 Q Is there an entitlement to a
 24 hearing if you're thrown out of the DMV?
 25 A Oh, no. It's my personal

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1 M.H. Capogrosso
 2 opinion. If you're telling a guy he
 3 can't show up, at least hear his story.
 4 Give him a reason. I don't know if
 5 you're entitled or not, but give the guy
 6 a chance. Give him a fair chance, you
 7 know.
 8 Q So --
 9 A I personally covered --
 10 Q -- Mr. Beer -- I'm sorry.
 11 A I covered cases for the guy
 12 when he wasn't there. I covered his
 13 cases, some of his cases. I tried the
 14 best to help the guy out when he wasn't
 15 there. You know, he was on drugs, what
 16 are you going to do.
 17 But at least give the man a
 18 chance to, you know, clean up his act,
 19 but he threw him out, that's it and
 20 then --
 21 Q Mr. Beer --
 22 A But I never said the judge
 23 put a gun to his head. That's
 24 ridiculous.
 25 Q Well, Mr. Beer writes -- he

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1 M.H. Capogrosso
 2 doesn't say that you told the judge to
 3 put a gun to his head. He says that you
 4 said that if Judge Gelbstein was a man,
 5 he would put a gun to his head.
 6 A No. I never said that.
 7 That's absolutely ridiculous. That's a
 8 total lie. That's a lie. First of all,
 9 I don't really give a darn about
 10 Willinger. I felt bad for the man, you
 11 know, but did I hang out with the guy,
 12 no.
 13 I mean, you know, he was a
 14 lawyer, I was a lawyer. I felt bad for
 15 the guy, he was on drugs and he died of
 16 suicide, but that was -- you know, he
 17 made the decision what to do with his
 18 life.
 19 Why would I -- why would I
 20 tell Gelbstein put a gun to his head?
 21 That's ridiculous.
 22 Q Why would Mr. Beer be lying
 23 about something like this?
 24 A I don't know. I didn't say
 25 that remark. I know Willinger should

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1 M.H. Capogrosso
 2 have been given a hearing, that's what I
 3 felt, an opportunity to at least give his
 4 position before they threw him out,
 5 especially what happened to me in
 6 December of 2011, right, that's how I
 7 felt.
 8 He should have gave
 9 Willinger at least an opportunity to at
 10 least hear his side of the story, but
 11 they didn't give him that opportunity so,
 12 yeah, I felt bad for the man because I
 13 was in the same predicament as he was.
 14 Q Why --
 15 A Did I tell the judge to put
 16 a gun to his head, absolutely not.
 17 Q Why were you in the same
 18 predicament as Mr. Willinger?
 19 A Because I got thrown out
 20 with that guy Brody over there, right, in
 21 December 2011 after Brody told me to go
 22 fuck myself twice, without a hearing,
 23 without anything, without an affidavit,
 24 nothing.
 25 I felt bad for the guy. I

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1 M.H. Capogrosso
 2 did feel bad. I covered his cases as
 3 best as I could. I didn't want to see
 4 the guy, but I felt bad for him. He had
 5 a real drug problem this guy. He wound
 6 up dissolute, lost all his money. They
 7 found him dead in his apartment one day.
 8 I felt bad for the man. I truly did. We
 9 are all attorneys. I felt bad for the
 10 guy.
 11 I didn't tell Gelbstein to
 12 put a gun to his head. It's ridiculous.
 13 I was in the same predicament as
 14 Willinger. They threw me out, too. They
 15 gave me no opportunity to respond to
 16 anything.
 17 Q Mr. Capogrosso, so we've
 18 looked at reports from Tahir and
 19 Mr. Beer. I'll represent to you that
 20 there are two other reports that
 21 corroborate you yelling at people about
 22 touching your things and being verbally
 23 abusive on this day, May 5, the other two
 24 being from Kimberly Rivers and Danielle
 25 Calvo.

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1 M.H. Capogrosso
 2 Are they all lying about
 3 you?
 4 A Now, Kimberly Rivers would
 5 have been -- I don't know. Let's address
 6 them one at a time. I told you what
 7 happened that day. I told you what
 8 happened that day. I was in the
 9 attorneys' room, there was a chair in the
 10 attorneys' room. I'm telling you what
 11 I -- what I recall. Either I sat on the
 12 chair or I put my bag on the chair.
 13 Tahir thought this is only his chair.
 14 that nobody could touch it. He walks in
 15 the room, starts moving my -- tells me
 16 to -- and I'm sitting in the chair.
 17 At some point I might have
 18 gotten up and put my briefcase on it and
 19 he starts moving my briefcase. I said
 20 don't touch my briefcase and he shouldn't
 21 have touched it. He shouldn't have
 22 touched it. He doesn't own the chair in
 23 the lawyers' room. He doesn't own it.
 24 Q So Mr. Capogrosso --
 25 A Now, what would you -- the

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1 M.H. Capogrosso
 2 man should not have put his hands on my
 3 briefcase if that's what he did on that
 4 day, but I was in the -- I was either
 5 sitting on his chair or my briefcase was
 6 on his chair and I'm making a phone call
 7 to a client and I'm telling the other
 8 lawyer leave my briefcase alone, that I
 9 probably said or I was sitting on his
 10 chair, which I had a right to do.
 11 Q Mr. Capogrosso, if -- and I
 12 know you don't believe that it's true and
 13 I know you don't agree, but if everything
 14 that these four people said about you was
 15 true and you had been yelling and cursing
 16 at people about moving your stuff and
 17 saying that the judge should put a gun to
 18 his head, would those be grounds to expel
 19 you from the TVB?
 20 A No. First of all, I'm not
 21 going to talk about hypotheticals because
 22 none of that that they're saying
 23 happened. I told you exactly what
 24 happened that day. I'm not going to deal
 25 in hypotheticals. I know what happened

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1 M.H. Capogrosso
 2 that day. I was there. I was there.
 3 Q Let me --
 4 A I know what happened.
 5 Q Let me you ask a question.
 6 A Well, let me ask you a
 7 question. Tahir said the word mother
 8 fucker throughout the day. He doesn't
 9 get removed. He said the word mother
 10 fucker to everybody and everyone, every
 11 client sometimes. He says mother fucker
 12 judge this, he got a bad hearing. He
 13 says it all the time.
 14 Diantha Fuller cursed me
 15 out. She curses. Are they being removed
 16 from the Brooklyn TVB, no. No, they're
 17 not. So what is their basis? Attorneys
 18 curse all the time if it's not on -- they
 19 do it at -- they curse all the time down
 20 there. I'm sorry --
 21 Q So let me ask you --
 22 A -- but I don't see any other
 23 attorney getting thrown out.
 24 Q Mr. Capogrosso, let me ask
 25 you the question if I may. I have a

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1 M.H. Capogrosso
 2 question for you. What conduct or
 3 behavior would justify someone being
 4 expelled from the TVB?
 5 A I have no idea. I don't
 6 know. I didn't verbally abuse anybody.
 7 I used the word eesha, eesha.
 8 Q So --
 9 A That's not verbal abuse.
 10 Imagine I said stay away from my stuff, I
 11 don't think that's verbal abuse. Maybe I
 12 sat in somebody's chair. That's not
 13 verbal abuse. I didn't threaten anybody
 14 with any physical conduct -- with any
 15 physical -- with anything.
 16 Q So --
 17 A I didn't threaten anybody.
 18 Q -- Mr. Capogrosso --
 19 A I don't know.
 20 Q You don't know what standard
 21 of behavior -- you don't know what
 22 infractions would justify someone being
 23 expelled from the TVB?
 24 A Well, have the same standard
 25 for everybody. Have the same standard

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1 M.H. Capogrosso
 2 for everybody.
 3 Q I'm not asking about your
 4 standard. I'm asking about the TVB's
 5 standard.
 6 A I don't know. Ask the TVB.
 7 I know I didn't verbally abuse anyone. I
 8 abused no one.
 9 Q Let me ask you this, is
 10 there --
 11 A I didn't abuse anyone.
 12 Q Is there anything that you
 13 could do that would justify your being
 14 expelled from the TVB?
 15 A I don't know. You tell me.
 16 I don't know. Take -- I'll tell you
 17 what, what I would do, if you took a case
 18 as a lawyer and you didn't argue that
 19 case before the judge and you just took
 20 the money and didn't show up, yeah, I
 21 would think that would get you removed.
 22 That's why I took it very
 23 seriously about showing up on every case.
 24 When they threw it at -- you know, you
 25 didn't show up for a case that you got

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1 M.H. Capogrosso
 2 paid on, I think that would be egregious.
 3 I think if you bribed a
 4 clerk, which the attorneys -- or give
 5 money to a clerk, I think that would be
 6 egregious and you should be thrown out,
 7 absolutely and I saw that or you gave
 8 money to a clerk and cash gifts to a
 9 clerk because you were seeking favor from
 10 that clerk, I think that's a reason.
 11 Paying off and bribing
 12 clerks. I think that's a reason,
 13 absolutely.
 14 Q Do you think that there's
 15 anyone else who practiced before TVB who
 16 should have been expelled?
 17 A Absolutely.
 18 Q Who?
 19 A Any lawyer who's bribing a
 20 clerk, giving a clerk money. I think --
 21 Q Can you name anyone specific
 22 who you think should have been expelled?
 23 A Any clerk -- any attorney
 24 that's covering cases for Judge Gelbstein
 25 I think should be thrown out. I think

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1 M.H. Capogrosso
 2 that's totally inappropriate if
 3 Gelbstein's got a caseload and there's an
 4 attorney covering cases for him.
 5 Q I understand that, but the
 6 question was can you name --
 7 A Name anyone?
 8 Q -- anyone by name who should
 9 have been expelled?
 10 A Anybody who was paying
 11 clerks and giving clerks cash in gifts
 12 and buying breakfast to get favor from
 13 those clerks, yes.
 14 Q The question is by name --
 15 A By name?
 16 Q -- can you name anyone?
 17 A You have to do your job.
 18 I've done my job here. I told you what I
 19 saw and I see. That's the Attorney
 20 General's job. That's the DMV Inspector
 21 General's job. That's not my job.
 22 I told you what I saw and
 23 what I -- you asked me a very specific
 24 question. That would be the reason for
 25 expelling somebody, bribing clerks.

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1 M.H. Capogrosso
 2 Getting --
 3 Q So just for the record, you
 4 have not named anyone.
 5 A How about Judge Gelbstein
 6 asking for a piece of the action?
 7 Absolutely he should be out. Absolutely
 8 he should be out.
 9 Ida -- Ida Traschen should
 10 be thrown out for not viewing evidence.
 11 not viewing evidence.
 12 Danielle Calvo should be out
 13 for not viewing evidence and saying I
 14 pushed Smart when she didn't view the
 15 push. Danielle Calvo should be out
 16 because she didn't view any evidence.
 17 Melanie Levine should be out
 18 because she filed a false report. She
 19 should be out for filing a false report
 20 about me and that could have been very
 21 easily investigated.
 22 Who else? Smart.
 23 Vahdat should be thrown out
 24 by giving a false statement that I
 25 followed a clerk and stopped him, which

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1 M.H. Capogrosso
 2 is not what happened because if you asked
 3 George Hon, that's a false statement.
 4 She should be thrown out because George
 5 Hon approached me that afternoon because
 6 I was talking to his girlfriend and I
 7 told you that.
 8 Those are the people who
 9 should be thrown out.
 10 Q Anyone else?
 11 A Traschen. Who else did I
 12 miss? Vahdat, Gelbstein. Gelbstein for
 13 getting a piece of the action, having
 14 lunch with ticket brokers and meeting
 15 with ticket brokers when he doesn't know
 16 what they're doing.
 17 The judges -- the lawyers
 18 paying off the clerks, giving them money.
 19 The clerks accepting the money. The
 20 clerks accepting the money. The clerks
 21 advising motorists, and I heard this at
 22 the DMV, these clerks advising go plead
 23 yourself guilty. You're not going to get
 24 any points. What are you telling a
 25 motorist? A clerk was doing that.

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1 M.H. Capogrosso
 2 Telling a motorist to go plead yourself
 3 guilty or you don't need an attorney on
 4 this, just go plead yourself guilty.
 5 Why is a clerk giving advice
 6 to a motorist? That was happening all
 7 the time. I would get upset with that.
 8 Those are the people who
 9 should be thrown out, but -- those are
 10 the people, not a hard working attorney
 11 who has no complaints by any clients or
 12 motorists, no, absolutely not.
 13 Tanya Rabinovich should be
 14 thrown out. She's calling herself a
 15 lawyer and collecting a fee and going to
 16 the counter and the clerks are doing
 17 business with her. She's rescheduling
 18 cases and pleading people guilty at the
 19 counter and she's not a lawyer. She
 20 should be thrown out.
 21 That's who should be thrown
 22 out.
 23 Q Well, I have no further
 24 questions.
 25 A There you go.

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1 M.H. Capogrosso
 2 MR. THOMPSON: Ms.
 3 MacDonald, Mr. Brodsky, is there
 4 anything that we should discuss here
 5 before we go off the record?
 6 MR. VIDEOGRAPHER: If
 7 there's any stipulations you want to
 8 put on the transcript, you can tell
 9 the court reporter.
 10 MR. THOMPSON: I think only
 11 that we agreed at yesterday's
 12 deposition that Mr. Capogrosso would
 13 share a copy of those transcripts
 14 with me and that I would share a copy
 15 of today's with him, correct?
 16 Is that right,
 17 Mr. Capogrosso?
 18 THE WITNESS: Yeah. You're
 19 going to send me a copy, I'll send
 20 you a copy of what I ordered,
 21 absolutely.
 22 MR. VIDEOGRAPHER: Then I'll
 23 wrap it. Here ends media unit number
 24 six --
 25 THE WITNESS: I'm sorry.

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1 M.H. Capogrosso
 2 One question to Attorney Thompson.
 3 How are you going to send me a copy?
 4 Are you going to e-mail it to me or
 5 are you going to send me a hard copy?
 6 MR. THOMPSON: That's a good
 7 question. I actually don't know what
 8 format I'm going to get this in.
 9 So, Ms. MacDonald, are we
 10 going to get digital, hard copy or
 11 both?
 12 MS. REPORTER: However you
 13 want to order it.
 14 MR. THOMPSON: That's a good
 15 question. I generally much prefer
 16 digital. Can I e-mail it to you?
 17 MS. REPORTER: I think
 18 that's to you, Mario.
 19 MR. THOMPSON: Yes.
 20 Mr. Capogrosso?
 21 THE WITNESS: All right. If
 22 you get it digitally, I'll take it
 23 digitally, that's it. I'm not going
 24 to ask you print it out. If you get
 25 it digitally, I'll take it digitally.

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1 M.H. Capogrosso
 2 If I get it by hard copy.
 3 then I'm going to get you a hard copy
 4 back. all right?
 5 MR. THOMPSON: Okay.
 6 THE WITNESS: However I
 7 receive it, I'll give it to you.
 8 However you receive it, you give it
 9 to me. That's all I can do.
 10 MR. THOMPSON: Digital is
 11 fine by us, so thank you.
 12 THE WITNESS: All right.
 13 The other question is you
 14 said you missed five pages out of one
 15 of my exhibits I gave you showing
 16 my -- my docket and my monies earned.
 17 I have to get you those five pages or
 18 if you ask your clerk in your office,
 19 I don't think they scanned it in
 20 because I didn't omit any pages, but
 21 I will check that, all right.
 22 MR. THOMPSON: And, you
 23 know, again as we did ask if you have
 24 any of the contemporary notes from
 25 2015 that you referenced, we'd like

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1 M.H. Capogrosso
 2 copies of those as well.
 3 THE WITNESS: All right.
 4 Fine.
 5 MR. VIDEOGRAPHER: Okay.
 6 Then here ends media unit number six.
 7 This concludes the video recorded
 8 virtual remote deposition of Mario H.
 9 Capogrosso taken by the defendants on
 10 Friday, December 18, 2020.
 11 The time is 5:21 p.m.
 12 Eastern Standard Time and we are
 13 going off the record.
 14
 15
 16 -----
 17 MARIO H. CAPOGROSSO
 18
 19 Subscribed and sworn to
 20 before me on this _____ day
 21 of _____, 2021.
 22
 23
 24 -----
 25 NOTARY PUBLIC

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 14 Jr., Bates stamped
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 14 Exhibit 11 280 14
 15 Statement of Jeffrey A.
 16 Meyers, Bates stamped
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 18 Exhibit 12 293 8
 19 Statement of Bushra
 20 Vahdat, Bates stamped
 21 DMV-0000224
 22 Exhibit 13 311 10
 23 Letter dated January 25,
 24 2012 to Ms. Fiala from
 25 Chris McDonough, Bates
 stamped DMV-0000226
 Exhibit 16 326 19
 Letter dated May 15,
 2012 to Chris
 McDonough and
 Jacqueline A. Rappel
 from Serwat Farooq,
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 Exhibit 17 327 18
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 McCann, PhD dated June
 14, 2012, Bates
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17		
18		
19		
20		
21		
22		
23		
24		
25		

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1
2 CERTIFICATION
3
4 I, LISA H. MACDONALD, a Registered
5 Professional Reporter and a Notary
6 Public, do hereby certify that the
7 foregoing witness, MARIO H. CAPOGROSSO,
8 was duly sworn on the date indicated, and
9 that the foregoing is a true and accurate
10 transcription of my stenographic notes.
11 I further certify that I am not
12 employed by nor related to any party to
13 this action.
14
15
16
17

Lisa H. MacDonald
LISA H. MACDONALD, RPR

18
19
20
21
22
23
24
25

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1
2 ERRATA SHEET
3 VERITEXT/NEW YORK REPORTING, LLC
4 1-800-727-6396
5 110 Old Country Road 1250 Broadway
6 Mineola, NY 11501 New York, NY 10001
7
8 NAME OF CASE: Capogrosso v Gelbstein
9 DATE OF DEPOSITION: December 18, 2020
10 NAME OF DEPONENT: Mario H. Capogrosso
11
12 PAGE LINE (S) CHANGE REASON
13
14
15
16
17
18
19
20
21 MARIO H. CAPOGROSSO
22
23 SUBSCRIBED AND SWORN TO BEFORE ME
24 THIS DAY OF _____, 20____
25 (NOTARY PUBLIC) MY COMMISSION EXPIRES

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